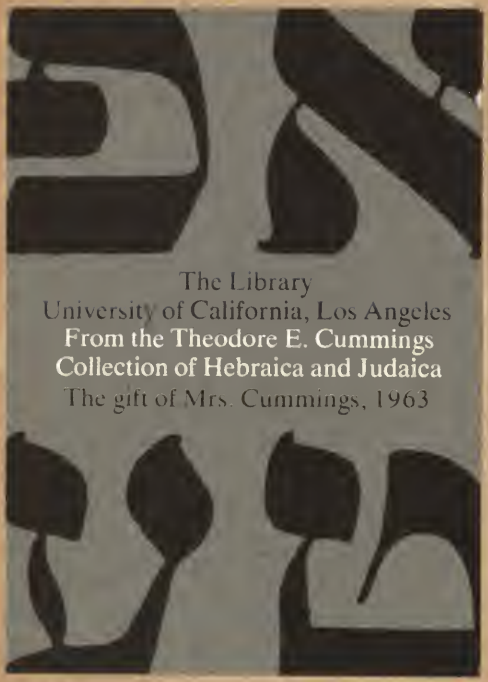

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משניות

י"ח מסכתות

ששה סדרי משנה

EIGHTEEN TREATISES

FROM

THE MISHNA.

TRANSLATED

BY THE REV. D. A. DE SOLA,

AND

THE REV. M. J. RAPHALL.

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PREFACE.

The circumstances which gave rise to the translation of the following portions of the Mishna, deserve a brief record in the annals of Jewish History, and are as follows:—

During one of the public discussions that took place at the vestry board of the Sphardim Synagogue, on the subject of revising the liturgy used in that Synagogue, and for improving its Public Worship, the opponents to alteration took shelter under the authority of the Mishna, and this led the advocates of improvement to express their long entertained doubts as to the divinity of the Oral Law. These gentlemen, on being taunted with using arguments derived from partial extracts furnished by Christian writers, urged the necessity of being supplied with an English translation from persons of their own faith. In consequence of this application, the meeting passed a resolution authorising the Rev. D. A. De Sola to translate the Mishna. Mr. De Sola having at the same time been empowered to call in a coadjutor, made choice of the Rev. M. J. Raphall, and the following translation (comprising such parts of the work as more immediately relate to Israel in their present dispersion) is the production of their joint labours.[1]

There can be no doubt that to the Israelite, who believes in the divinity of an Oral Law—who thinks the salvation of his

[1] The Treatise Nidda not being suited to the refined notions of the English reader, has not been printed; and for the same reason the Hebrew in some places has been substituted for the English. In Treatise Yebamoth it has been deemed necessary to omit, for similar reasons, chapters VI. and VIII., as well as several sections in the same Treatise; the omissions being indicated by asterisks.

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soul depends on such belief—but to whom the Mishna in the Hebrew is a sealed book—there can be no doubt that to such a man, if he be *rational* as well as pious, the present translation must be highly acceptable, as mere belief in the contents of a book not understood can confer no claim to heavenly reward. To his co-religionist, equally unacquainted with the Hebrew, who thinks that a doctrine involving the soul's salvation or perdition should rest, not on presumptive but on demonstrative proof, and whose scepticism is grounded on the *expressive* silence of God, of Moses, and of the Prophets, as to the existence of *two* divine codes—equally acceptable to him must be a publication which throws light on a subject of such deep spiritual interest. And as the entire Mishna has been translated by our continental brethren into German, it is to be hoped that the whole will be rendered into English for the enlightenment of the British Jew, who will thereby be enabled to read a book said to contain God's explanation of the Written Law. We find the holy pages of the Pentateuch, the Prophets, and the Hagiography, open for his instruction, comfort, and consolation; and the same free access should be given to pages containing so large a portion of the Oral Law, which also claims a divine origin.

Shebat, 5605—*January*, 1845.

סדר זרעים

I. TREATISE BERACHOTH

CONTAINS LAWS FOR REGULATING THE DAILY PRAYERS AND THE RITUAL OF DIVINE WORSHIP.

CHAPTER I.

§ 1. From what time is the שמע[1] to be said in the evening? From the time the priests[2] again enter [the sanctuary] to eat their heave offerings, until the close of the first watch[3] [of the night]. Such is the dictum of R. Eleazar; but the sages say, "until midnight." Rabbon Gamaliel saith, "until the break of dawn." It happened [once] that his sons returned from a banquet [after midnight]. They said to him, "We have not yet said the שמע." He replied, "If the day is not yet dawned, ye are bound to say it: and," added he, "not only in this [instance], but every [duty the performance of which] the sages say [is limited] to midnight only, the legal obligation does not cease until the break of dawn. [Thus in] the burning of the fat and members [of sacrifices] the legal obligation [is in force] till break of dawn. And all [offerings] which must be eaten the same day [they have been brought] the legal obligation [extends] until the break of dawn." Such being the case, why do the sages say "until midnight" only? To withhold man from transgression.

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[1] Deut. vi. 3. "Hear, O Israel, the Lord our God, the Lord is one," &c.

[2] Such priests as were unclean, and were bound to abstain from consecrated food until sunset. (Levit. xxii. 7.)

[3] The night (according to the Mishna) begins at 6 *p.m.*, and is divided into three watches of four hours each.

§ 2. From what time is the שמע to be said in the morning? From the time man can distinguish between blue and white. R. Eleazar saith, "between blue and leek-green." And it may be said, "until the sun shines forth [over the mountain tops]." R. Joshua saith, "until the third hour,"[4] for such is the habit of royal princes who rise at the third hour. He who says the שמע after that time loses nothing, [but is] like any man who reads in the Torah.

§ 3. Beth [the school of] Shammai hold, that in the evening, men are to recline when they say the שמע, and in the morning, they are to stand upright; for it is said, "when thou liest down, and when thou risest up."[5] But Beth Hillel hold, that every man is to say it his own way, [in what posture] he pleases, for it is said, "when thou walkest by the way."[6] Such being the case, why [then] is it said, "when thou liest down, and when thou risest up"? The meaning is, at the time when mankind is in the habit to lie down, and at the time when mankind is in the habit to rise. R. Tarphon said, "Once I came along the road, and reclined, in order to say the שמע, according to the dictum of Beth Shammai; but I exposed myself to danger from robbers." They [the sages] answered him, "Thou wast guilty against thyself [deserving of death] because thou didst violate the decision of Beth Hillel."

§ 4. In the morning, two benedictions are said before [the שמע] and one after it; and in the evening, two benedictions before and two after it, one long and one short.[7] Where they, the sages, have adopted the long [form] no man is authorised to shorten [use the short form]; and where they have adopted the short form no man is authorised to lengthen [use the long form]. [Where they] close [with a benediction] no man is authorised not [so] to close: and [where they do] not close [with a benediction] no man is authorised [so] to close.

§ 5. The exit from Egypt is to be mentioned at night. R. Eleazar ben Azariah saith, "Verily I am as a man of 70 years, [almost 70 years of age], but have not succeeded [to prove] that the exit from Egypt ought to be mentioned at night, until Ben Zoma [thus] expounded

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[4] The day (according to the Mishna) begins at 6 *a. m.*, from which time the hours are to be computed. Thus the third hour is 9 *a. m.*; day and night each consists of twelve hours. [5] Deut. vi. 7. [6] Ibid.

[7] A long benediction begins and ends with the form ברוך אתה ה' "Blessed art thou, O Lord;" whereas, a short benediction is one which only ends with that phrase.

[the law]: 'that thou mayest remember the day of thy going forth from the land of Egypt all the days of thy life.'[8] 'The days of thy life,' would denote the days only; but [the expression] '*all* the days of thy life' [includes] the nights [likewise]. But the sages say, 'the days of thy life,' [denote] the world [in its present state], whereas 'all the days of thy life' [include] the future days of Messiah [likewise]."

CHAPTER II.

§ 1. A man who is reading in the Torah [the parasha שמע], when the time comes for saying [prayers], if he devotes his heart [attention] to the prayer, he has acquitted himself [of the obligation to say the שמע]; but if not, he has not [so] acquitted himself. At the close of the different sections, man salutes out of respect and responds [to a salutation]: but in the middle of a section, he salutes from fear [only] and responds. Such is the dictum of R. Meir. R. Jehudah saith, "In the middle [of a section] he salutes from fear, and responds out of respect. At the close [of a section] he salutes out of respect, and returns the salutation of any man."[1]

§ 2. The [close of the] sections are, between the first benediction and the second: between the second and שמע ישראל [Hear O Israel]: between שמע and והיה אם שמע [and it shall come to pass, &c]:[2] between והיה אם שמע and ויאמר[3] [and the Lord spake unto Moses]: between ויאמר and אמת ויציב, [it is true and confirmed]. R. Jehudah saith, "Between ויאמר and אמת ויציב, man is not to break off." R. Joshua ben Korha saith, "Why does the שמע precede [the section] והיה אם שמע? In order that man may yield homage to the kingdom of heaven, before he takes upon himself the yoke of the commandments. Why does [the section] שמע והיה אם precede ויאמר? because [the precepts of] והיה אם שמע, may be practised by day and by night,[4] whereas the precepts of ויאמר can only be practised by day."[5]

§ 3. He who says the שמע, so as not to be audible to his own ears, has acquitted himself [of the duty to say it]. R. José saith,

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[8] Deut. xvi. 3.

[1] As, in those days, the salutation, "Peace be with ye," conveyed the assurance of friendly intentions, and of personal safety; to omit saluting, or to neglect responding to a salutation, might be attended with dangerous consequences.

[2] Deut. xi. 13. [3] Numbers xvi. 37.

[4] It directs, "Ye shall teach them to your children." (Deut. xi. 18.)

[5] It directs, "That ye may look upon it" [the fringe]. (Num. xvi. 39.)

"He has not [so] acquitted himself; if he has said it without due attention to the letters [spelling and pronunciation]." R. José saith he has acquitted himself. R. Jehudah saith he has not. If he has said it in an irregular order, he has not acquitted himself. If he has made a mistake, he recommences from where he made the mistake.

§ 4. Labourers may say the שמע on the top of a tree or of a wall; which they are not at liberty to do with the תפלה [the 18 benedictions called עמידה].

§ 5. A bridegroom is exempt [from saying the שמע] on the first night [of his nuptials] and until the expiration of the Sabbath, if he has not consummated his marriage. It happened that Rabbon Gamaliel said [the שמע] on the first night of his nuptials. His disciples said to him, "Hast thou not taught us, Rabbi, that a bridegroom is exempt [from saying the שמע] on the first night of his nuptials?" He answered them, "I will not listen to you, to withhold my homage from the kingdom of heaven even for the space of a single instant."

§ 6. He [R. Gamaliel] bathed on the first night of his wife's death. His disciples said to him, "Hast thou not taught us, Rabbi, that a mourner is prohibited to bathe on the first night?" He answered them, "I am not like all other men; I am infirm."

§ 7. When his slave Tabbi died, he, [R. Gamaliel], received visits of condolence. His disciples said to him, "Hast thou not taught us, Rabbi, that visits of condolence are not to be received for slaves?" He answered them, "My slave Tabbi was not like all other slaves; he was כשר [pious]."

§ 8. A bridegroom who wishes to recite the שמע, on the first [bridal] night, is at liberty so to do. Rabbon Simeon ben Gamaliel saith, "Not every one who wishes to assume [the] fame [of superior piety] may do so."

CHAPTER III.

§ 1. He whose dead lieth before him, is exempt from saying the שמע, from the תפלה [prayer], and from תפלין [phylacteries]. Those who carry the bier, those who relieve them, and those who relieve the relief,—such as go before the bier, and such as go after it [whose services] are required for the bier—are all exempt [from] saying [the שמע]. But those [whose services] are not required for the bier are bound [to say שמע]. Both are alike exempt from the תפלה [prayer].

§ 2. When they have buried the dead and return, if they have time to begin and end [any entire section of the שמע] before they

reach the files,[1] they are to begin: if not, they are not to begin. Of those who stand in the files, the inner ones are exempt, but the outer ones are bound to say the שמע.

§ 3. Women, slaves, and minors are exempt from saying the שמע, and also from תפלין [phylacteries]; but they are bound [to observe] the תפלה [prayer] the מזוזה [inscription on the door-post], and the grace after meat.

§ 4. A man who is unclean from seminal emission [without carnal copulation], is to meditate inwardly on the שמע, but does not pronounce the benedictions before or after it. At his meals he says grace after meat, but not before. R. Jehudah saith, "He says grace both before and after meat."

§ 5. If he stands in the תפלה [prayer], and recollects that he is unclean from seminal emission, he is not to break off [at once], but to shorten [the prayer]. If he has stepped into the water [to bathe[2]] should he have time [sufficient] to ascend, to cover [his nakedness], and to say the שמע before the sun shines forth [over the mountain tops], he is to ascend, to cover himself, and to say the שמע. If not, he is to cover himself with water, and to say it. But he is not to cover himself with foul water, or such water as [any substance has been] dissolved in, unless he has poured clean water to it. At what distance is he to keep from [such] foul water, or from [any] excrement? 4 amoth [cubits].

§ 6. A man who has a running issue [blenorrhagia], and experiences seminal emission; a woman who, having the flowers, emits semen והמשמשת שראתה נדה, all require to bathe; but R. Jehudah declares them exempt.

CHAPTER IV.

§ 1. The morning prayer [may be said] until noon. R. Jehudah saith, "until the fourth hour." The מנחה prayer until the evening. R. Jehudah saith, "until [the expiration] of half the time [appointed for] the מנחה sacrifice. The evening prayer [is not limited] to any fixed time, and the מוסף [additional prayer] [may be said] all day. R. Jehudah saith, "until the seventh hour [only]."

§ 2. R. Nehooniah ben Hakanah used to pronounce a short prayer when he entered the Beth Hamedrash [College], and again

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[1] After interring the dead, those who attended the funeral used, at some short distance from the grave, to form files or rows, through which the mourners passed to receive the customary condolence.

[2] Lev. xv. 16.

when he left it. They [the sages] asked him, "What occasion [authority] is there for this prayer?" He answered them, "When I enter, I pray that no cause of offence may arise through me; and when I quit, I return thanks for my vocation [as a teacher of the law]."

§ 3. Rabbon Gamaliel saith, "Man must daily say the eighteen benedictions." R. Joshua saith, "a compendium of the eighteen [benedictions]." R. Akivah saith, "If the תפלה is fluent in a man's mouth, he says the eighteen [benedictions]; if not, he only says a compendium of the eighteen [benedictions]."

§ 4. R. Eleazar saith, "If a man turns his prayers into a fixed charge [or burthen] they cease to be humble supplications." R. Joshua saith, "If a man travels in dangerous places, let him say this short prayer, 'Save, O Lord, thy people, the remnant of Israel; at every stage of their journeying,[1] let their wants be present before thee. Blessed art thou, O Lord, who hearest prayers.'"

§ 5. If a man rides on an ass, he must dismount: if he cannot dismount, he turns his face towards the Sanctum Sanctorum; and if he cannot turn his face, he is to direct his mind to that most holy place.

§ 6. If he is seated in a ship, or in a cart, or in a waggon [on a raft], he directs his mind to the Sanctum Sanctorum.

§ 7. R. Eleazar saith, the מוסף [additional prayer], is only to be read in a public congregation. But the sages say, "Whether there be [a congregation] or not, [this prayer must be read]." R. Jehudah said, in the name [on the authority] of R. Eleazar, "In all places where there is a public congregation, single individuals are exempt from praying מוסף."

CHAPTER V.

§ 1. Men are not to stand up and pray, except with profound humility. The pious men of ancient days used to pause a full hour before they began to pray, in order to direct their minds [hearts] to the Deity. Though the king salute him he is not to respond [to the salutation] and though a serpent wind itself round his heel, he is not to interrupt [his prayers].

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[1] The expression in the original, בכל פרשת העבור, is very obscure, and has been variously rendered. According to some, it means "at every cross-road." According to others, "even when they [Israel] turn away and transgress." The translation we have adopted seems most in accordance with the context.

§ 2. The [divine] power of [causing] the rain [to descend] must be mentioned in [the benediction for] the resurrection of the dead. Supplication for rain is to be made in the benediction for the year, and הבדלה, [the distinction between the Sabbath and week day] in the benediction חונן הדעת [who graciously bestows knowledge]. R. Akivah saith the הבדלה is to be said in a fourth benediction by itself. R. Eleazar saith, in the thanksgiving [מודים].

§ 3. He who says in his prayers "Thy mercy extends [even] to a bird's nest, or for the good [which thou doest us] be thy name remembered," or he who says twice מודים [we thank] is to be silenced. If a man step up to the ark [as minister to pray for the congregation] and make a mistake, another shall step up in his stead; nor may he in such a case, decline the office. From whence does he [the substitute] begin? From the commencement of the benediction in which his predecessor made the mistake.

§ 4. He who steps up to the ark is not to respond "Amen" after the Cohanim [priests], lest his attention become diverted [from the prayers]. If no other Cohen be present but himself, he is not to lift up his hands [to bless the congregation]. But if he feel quite assured that he can lift up his hands, and then resume [his prayers], he is at liberty so to do.

§ 5. If a man prays and makes a mistake, it is a bad omen for him. If he be deputed by a congregation [minister], it is a bad omen for his constituents, for a man's deputy is like the man himself. It is related of R. Hanina ben Dosa, that when he prayed for the sick, he would say, "This one will live," or "Such a one will die." They [the sages] said to him, "By what dost thou know [it]?" He said to them, "If my prayer is fluent in my mouth, I know that he is accepted; but if not, I know that he is lost!"

CHAPTER VI.

§ 1. What blessing must be said for fruit? For fruit which grows on a tree, say, "who createst the fruit of the tree" except for wine; for thereon the benediction is; "who createst the fruit of the vine." For fruits growing on the earth say "who createst the fruit of the earth" except for bread, for thereon the benediction; "who bringest forth bread from the earth" must be said. For vegetables say, "who createst the fruit of the earth" R. Jehudah saith "who createst [various] kinds of herbs."

§ 2. If he has said the benediction "who createst the fruit of the

earth," for fruit grown on trees he has acquitted himself [of the obligation to return thanks]: but should he say "the fruit of the tree," for fruits grown on the earth, he has not acquitted himself. But if for either [kind] he said "who gave being to all things through his mandate" he has acquitted himself.

§ 3. For things which do not derive their immediate growth from the earth [ground] say שהכל "who gave being to all things," &c. For vinegar, unripe fruit which has dropt [off the tree], and locusts[1] say שהכל ["who gave being," &c.] On milk, cheese, and eggs, say [also] שהכל. R. Jehudah saith no blessing should be pronounced over things which had their origin in a curse [or corruption], [or which partake of the character of a curse].

§ 4. If a man has before him various kinds [of fruits], R. Jehudah saith, If there be among them of the seven kinds[2], he is to pronounce the benediction thereon: but the sages say he may say the blessing on which of them he pleases.

§ 5. If the blessing on wine has been said before commencing the meal, it frees the wine drunk after the meal. If the blessing has been said over the פרפרת[3] eaten before the meal, it frees the פרפרת eaten after the meal. If the blessing has been said over the bread, it frees the פרפרת; but the blessing on the פרפרת does not free the bread. Beth Shammai say, "Neither does it free that which has been cooked [made dishes]."

§ 6. If several persons sit down to eat, each one must say grace for himself; but if they sit at the same table, one says grace for them all. If wine is brought to them during the meal, each one says the blessing thereon for himself: but if it is brought after the meal, one says the blessing for them all. He also says the blessing for the perfume[4], although that be not brought till after the meal.

§ 7. If salted food be set before a man, and bread with it, the blessing is said on the salted food, which frees the bread, as that is only an accessary. The general rule is, whenever any principal

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[1] Locusts form a common article of food in the East.

[2] The Holy Land is celebrated for the production of seven kinds of fruits, &c. enumerated in Deut. viii. 8.

[3] פַּרְפֶּרֶת derived from the Greek *παραφερομενα*. It signifies here anything eaten before dinner to excite appetite; also after dinner as dessert. Some are of opinion it means anything that is usually eaten with bread *παραφερομενα* [food before the repast].

[4] It was customary to introduce perfumes and incense after the meal was over.

[article of food] is partaken of, with an accessary to it; the blessing is said on the principal article, which frees the accessary.

§ 8. If a person have eaten figs, grapes, and pomegranates, he must say three blessings after them. Such is the dictum of Rabbon Gamaliel: but the sages hold one blessing only, being a compendium of the three. R. Akiva saith, even if a person has eaten [nothing but] boiled pulse, and he has made his meal of it, he is bound to say the three blessings. Whoever drinks water to [satisfy] his thirst, says the blessing שהכל. R. Tarphon saith, [he must say the blessing] בורא נפשות רבות ["who createst many animate beings and providest for their wants,"] &c.

CHAPTER VII.

§ 1. Three men who have eaten together, are bound to join in the זמון [preparation to say grace after meat]. If a person has eaten of דמאי [that which is subject to the doubt, whether it has paid tithe or not], or of first tithe, from which the heave offering has been taken; or of second tithe or consecrated things which have been redeemed: also, if the waiter [or attendant] has partaken of their meal, a quantity of the size of an olive,[1] [or if] a Samaritan makes up the party, the זמון [preparatory benediction before grace] must be said. But if things untithed have been eaten, or first tithes, of which the heave offering has not been taken, or consecrated things which have not been redeemed; or if the waiter has eaten [any quantity] less than the size of an olive [of that meal], or [if] an idolator [makes up the party] the זמון is not to be said.

§ 2. Women, slaves, and infants cannot be included in the number required for the זמון. Which is [the smallest] quantity [of food that qualifies] for the זמון? The size of an olive. R. Jehudah saith the size of an egg.

§ 3. Which is the form of the זמון? If three [form the party] he [who says grace] says, "Let us bless Him of whose gifts we have eaten." If three [form the party] besides himself, he says, "Bless ye Him," &c. If ten [form the party] he says, "Let us bless our God," &c. if ten, exclusive of himself, he says, "Bless ye our God," &c. Whether there be ten or ten myriads[2] the form of

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[1] So that the waiter, or the Samaritan, can be included in the party of three, that being the smallest number permitted to say the זמון.

[2] Such is the opinion of R. Akiva [an expression omitted in the text].

זמון remains the same. If there are exactly one hundred, he says, "Let us bless the Lord our God," &c. if there are one hundred exclusive of himself, he says, "Bless ye the Lord our God," &c. If there are one thousand, he says, "Let us bless the Lord our God, the God of Israel." If there are a thousand exclusive of himself, he says, "Bless ye the Lord our God, the God of Israel," &c. If there are a myriad, he says, "Let us bless the Lord our God, the God of Israel, the God of hosts, who is enthroned amidst the cherubim," &c. If there are a myriad exclusive of himself, he says, "Bless ye," &c. &c. And in the same manner as he pronounces the preparatory invocation, those who sit at the table make the responses. [Thus, for instance] they say, "Blessed be the Lord our God, the God of Israel, the God of hosts, who is enthroned amidst the cherubim, for the food we have eaten." R. José, the Galilean, saith the [form of] invocation ought to be arranged according to the number of persons assembled; for it is said, "Bless ye God in the congregations, the Lord, ye who spring from the fountain of Israel."[3] R. Akivah saith, "How do we find it at the synagogue? whether there be many or few [assembled] the minister says, 'Bless ye the Lord.'" R. Ishmael saith, "Bless ye the Lord, who is ever blessed."

§ 4. When three men have eaten together, they are not at liberty to separate [without joining in the זמון]; neither may four or five, but six may [divide into two parties], and so may any number up to ten. But ten may not separate [without joining in the זמון], nor may any number less than twenty, [who can again form two parties].

§ 5. If two separate parties have dined in the same house, should some of each party be able to see some of the other company, they may join in the זמון: but if they cannot so see each other, each party says the זמון by itself. The blessing on the wine should not be said until it has been mixed with water. Such is the dictum of R. Eleazar; but the sages say the blessing may be said [without its being mixed].

CHAPTER VIII.

§ 1. The following are the points relating to meals, respecting which the schools of Shammai and of Hillel differ. Beth Shammai

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[3] Psalm lxviii. 26.

hold that on festivals man must first say the blessing of the day and then [that] on the wine: whereas, Beth Hillel hold, he must [first] say the blessing on the wine and then that of the day.

§ 2. Beth Shammai say, the hands must be washed first, and the goblet [for the blessing] be filled afterwards. But Beth Hillel say the goblet must be filled first, and then the hands be washed.

§ 3. Beth Shammai say, man is to put the napkin on which he wipes [his hands] on the table; whereas Beth Hillel say, he is to put it on the couch.

§ 4. Beth Shammai say, that after a meal, the room must be swept out first, and the hands be washed afterwards [for the grace]; whereas Beth Hillel say, the hands are to be washed first, and then the room is to be swept.

§ 5. Beth Shammai say the blessings[1] in the following order:— Over the light, the food, the spices, and the distinction of the festival [הבדלה]; whereas Beth Hillel say, the light, the spices, the food, and הבדלה. According to Beth Shammai, the form of blessing on the light is, "who created the light of fire;" but, according to Beth Hillel, it is, "Creator of the lights of fire."[2]

§ 6. The blessing must not be said over light and spices belonging to an idolator, nor over light and spices placed near a corpse, nor yet over light and spices placed before objects of idolatry. The blessing over the light is not to be said until the person saying the blessing has enjoyed the benefit of the light.

§ 7. If a person has forgotten to say grace after his meal, Beth Shammai hold, he must return to his place and there say grace; but Beth Hillel hold, he may say it in any place where he recollects [the omission]. Until when does the obligation to say grace remain in force? Until the food in his stomach has been digested.

§ 8. If wine be placed on the table after the food, and there be but one goblet full, Beth Shammai hold, that the blessing on the wine is to be said first, and then the grace after meat; whereas Beth Hillel hold, that the grace after meat is to be said first, and then the blessing on the wine. The response "Amen" must be made when an Israelite pronounces a blessing: but is not to be made after a Samaritan, unless the whole of the blessing has been heard.

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[1] Referring to the meal at the expiration of a Sabbath or holy day, should there be but one goblet of wine left. Most of these regulations have a direct reference to the customs of the East, in the days of the Mishna.

[2] *i. e.* The various tints of the rays of light.

CHAPTER IX.

§ 1. He who sees a place wherein wonders were wrought unto Israel, says, "Blessed be He who wrought wonders unto our ancestors in this place." On seeing a place from which idolatry has been extirpated, he says, "Blessed be He who hath extirpated idolatry out of our land."

§ 2. On comets, earthquakes, lightnings, thunder, and tempests, say, "Blessed be He whose might and omnipotence fill the universe." On seeing mountains, hills, seas, rivers, and deserts, he says, "Blessed is He who created the world." R. Jehudah saith, when a man sees the ocean, he is to say, "Blessed is He who created the great sea;" this blessing he is to say who sees the ocean at intervals only. On [genial] rains and at the receipt of good news, he says, "Blessed be He who is good and beneficent." On hearing evil tidings, he says, "Blessed is the true [righteous] judge."

§ 3. He who has built a new house, or bought new furniture, says, "Blessed is He who has kept us alive," &c. Man is bound to say the blessing for evil without reference to the good that may accrue from it; and for good without reference to the evil that may accrue from it. He who supplicates for that which has already taken place, offers a prayer in vain. If [for instance] a person whose wife is pregnant, prays, "God grant that my wife bring forth a male child:" or if a person on the road hears loud lamentations in the town and prays, "God grant that it may not concern any of my family." Such as these are prayers in vain.

§ 4. Whoever enters a fortified town must say two prayers; one on his entering, and one on his quitting it. Ben Azai saith four; two on his entering, and two on his quitting it; viz.—he returns thanks for past [mercies] and prays for [mercies] to come.

§ 5. Every man is bound to bless God for evil, as well as he is bound to thank him for [the] good [he receives from Providence]; for it is said, "And thou shalt love the Lord thy God with all thy heart, and all thy soul, and all thy might."[1] "With all thy heart" means, with both thy inclinations, the evil as well as the good. "with all thy soul," means, even should he deprive thee of life; and "with all thy might" means, with all thy property. According to another opinion, "with all thy might," signifies with whatever measure [or attribute] he metes out his dispensations unto thee; do

[1] Deut. vi. 5.

thou thank him as much as thy might possibly permits thee.[2] No man is to behave in an irreverent manner when near the eastern gate [of the Temple], for it is in the direction of the Sanctum Sanctorum. No man is to go on the mountain of the Temple [Moriah] with his stick, his shoes, or with his purse [girdle of money], nor yet with dust-covered feet; nor is he to make it a thoroughfare [to lessen the distance] [short cut], much less is he permitted to spit thereon. All the blessings pronounced in the Temple concluded with the set form, [Blessed be the Lord God of Israel] "from eternity." But since the Epicureans [*Atheists*] perversely taught, there is but one state of existence, it was directed that men should close their benedictions with the form [Blessed be the Lord God of Israel] "from eternity to eternity." It was moreover directed that every man should greet his friend by the name of the Lord, as it is said "And, behold, Boaz came from Bethlehem, and said unto the reapers, The Lord be with you: and they answered him, The Lord bless thee;"[3] and it is also said, "The Lord be with thee, thou mighty man of valour."[4] Moreover, it is said, "Despise not thy mother, because she is grown old."[5] And it is also said, "It is time to be doing for the Lord, they have made void thy law."[6] R. Nathan saith, "They have made void thy law, because the time is arrived when it becomes necessary to be doing for the Lord."

II. TREATISE PEAH.

[Contains laws relating to the corner of the field to be left for the poor (Levit. xxiii. 22, and Deut. xxiv. 19), and generally such laws as relate to the rights of the poor on the soil of the Holy Land.]

III. TREATISE DEMAI.

[Contains laws relating to such agricultural produce in the due liquidation of tithes and heave offerings, of which the payment is doubtful.]

N.B. It must be remarked, that the Mishna nowhere confines itself to the subject only of which it professes to treat; but that remarks and opinions are occasionally introduced, bearing no reference to the subject which precedes or succeeds them.

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[2] In the original, there is a play upon the words מאד, מדה, מודד, and מורה, which cannot be preserved in any translation.

[3] Ruth ii. 4. [4] Judges vi. 12. [5] Prov. xiii. 22. [6] Ps. cxix. 126.

IV. TREATISE KILAIM

CONTAINS LAWS DERIVED FROM, AND ENFORCING THE DIVINE COMMANDS.—(Levit. xix. 19 ; Deut. xxii. 9, 11).

"*Thou shalt not let thy cattle gender with a diverse kind ; thou shalt not sow thy field with a mingled seed, neither shall a garment of mingled woollen come upon thee*" (Levit. xix. 19).

"*Thou shalt not sow thy vineyard with divers seeds, lest the fruit of thy seed, which thou hast sown, and the fruit of thy vineyard, become defiled. Thou shalt not plough with an ox and an ass together. Thou shalt not wear a garment of divers sorts of woollen and linen together*" (Deut. xxii. 9, 11).

§ 1. Wheat and זוּנִין[1] are not in the relation of kilaim,[2] towards each other. Barley and oats are not kilaim, neither are spelt and rye, nor beans and chickpeas, nor small peas and טוֹפַח,[3] nor white beans and scarlet beans.

§ 2. Cucumbers and melons are not kilaim. R. Jehudah saith they are. Lettuce and cabbage-lettuce are not kilaim; neither are endive and wild succory; nor common [garden] leek and wild leek; nor common coriander and wild coriander; nor common mustard and Egyptian mustard; nor Egyptian pumpkins and bitter pumpkins; nor Egyptian beans and pod-beans.

§ 3. Turnips and rape [turnip radishes] are not kilaim; neither are cabbage and [wild] colewort, nor תְּרָדִים[4] and לְעוּנִים.[5] R. Akivah adds, neither are common garlic and wild garlic; nor onions and shalots; nor תּוּרְמוֹס[6] and פַּלְסוֹם.[7]

§ 4. Among the [fruits of] trees, pears and crustumina[8] are not kilaim; nor are quinces and medlars. The apple and crab apple, apricots and almonds, plums and pistachios, although similar [in flavour] are, nevertheless, kilaim.

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[1] Commentators differ as to what kind of plant is designated by this name. Surenhusius renders it lolium [darnel]. Some believe it to be some species of *vicia* [vetch], while others consider it a kind of ervum [tare] : all agree that it is non-edible.

[2] The word "kilaim" denotes the commixture of things differing in kind, species, or nature; here it means mixed seeds of various kinds.

[3] A kind of pea or legume [a pod-vegetable].

[4] Bieta [beet].

[5] Armel [thrift].

[6] Lupinus albus [white lupine].

[7] Lupinus pilosus [rose lupine].

[8] A kind of small pear.

§ 5. Radishes and rape, mustard and lapsano,[9] Greek and Egyptian pumpkins [together] and bitter pumpkins, although similar, are, nevertheless, kilaim.

§ 6. The wolf and the dog, the fox and the fox-hound, goats and deer, sheep and chamois, the horse and the mule, the mule and the ass, the ass and the zebra, although similar, are kilaim.

§ 7. [The fruits of] trees must not be grafted on trees of a different kind; nor [one kind of] shrub, [plant or herb] on another kind of shrub; nor yet [scions of] trees on shrubs, nor shrubs on trees. R. Jehudah permits the grafting of shrubs on trees.

§ 8. Shrubs must not be planted on a sycamore-bush; rue must not be grafted on white cassia, because that [would be a shrub] on a tree; a scion of figs must not be planted among חֲצָב[10] to cool it; a vine-branch must not be sunk [trained] into a melon-bed, to instil its juices therein, because that is a tree on a plant; pumpkin-seed must not be set among mallow, in order that it may be preserved therein, as that is herb in herb.

§ 9. If turnips and radishes be hidden [in the ground] beneath a vine, so that part of the leaves are visible, man need not feel any hesitation [to use them], either on the score of kilaim or of the 7th [sabbatical] year,[11] nor yet of tithes; and they [the turnips and radishes] may be taken [out of the ground] on the Sabbath-day. If wheat and barley be sown at once [together], that forms kilaim. R. Jehudah saith, "Kilaim are not formed unless two kinds of wheat be sown to one of barley, or two kinds of barley to one of wheat; or wheat, barley, and spelt, be sown together."

CHAPTER II.

§ 1. If in a saah[1] of seed-corn there is one-fourth [of a kab] of any other kind of seed, the [last mentioned] quantity must be diminished. R. Jose saith, "Whether this quarter of a kab consist of one [different kind of] seed, or of two [kinds], it must be picked out of the saah." R. Simeon saith, "This rule [that the quantity of different seeds intermingled among a saah of seed-corn, must be

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[9] Nipplewort. Most of the names in the text are derived from the Arabic; vide Maimonides in loco.

[10] Supposed to be hedera [ivy.]

[11] Should they have been hidden in the sixth year, and remain in the ground till the seventh.

[1] A saah equal to six kab; a quarter kab, the twenty-fourth part of a saah.

diminished if it amount to one-fourth of a kab] holds good only when the whole quarter of a kab is of one kind." But the sages hold, that whatever of kilaim is mixed among a saah of seed-corn, must all be included in the computation of the quarter of a kab.

§ 2. To what does this rule apply? To grain of one kind mixed among grain of other kinds; to legumes mixed among legumes; also to grain [mixed] among legumes, and to legumes mixed among grain. They [the sages] laid it down as a rule, that all kinds of non-edible garden seeds, are subject to the computation of kilaim, provided they reach the proportion of one twenty-fourth part of the total quantity of seed-corn required to sow a Beth-Saah.[2] R. Simeon saith," As in this instance they [the sages] are more rigid, so in another instance they alleviate [the observance], inasmuch as flax-seed mixed among corn, is also subject to the computation of kilaim only when it reaches the proportion of one twenty-fourth part to the Beth-Saah.[3]

§ 3. If a man having sown his field with wheat changes his mind, and determines to sow it with barley, he must tarry till the first sown seed has germinated [is dissolved in the ground], then he must plough up the field before he may sow the fresh seed; if the wheat [first sown] has sprung up, he is not to say, "I will first sow [the barley], and then plough up my field," but he must plough up first, and afterwards sow. To what extent is he bound to plough up his field? To the depth of the furrows for the early rain. Abbah Saul saith, "so that in a field of the size of a Beth-Saah there remain not the space [equal to receive] one-fourth kab of seed-corn [unploughed]."

§ 4. If a man, having sown his field, change his mind, and determine to plant thereon, he must not say, "I will first plant and then plough up my field," but he must plough up first and afterwards plant. If, having planted his field, he change his mind, and determine to sow on it, he must not say, "I will first sow my field, and then root up what I have planted," but he must first uproot, and then sow. But, if he like, he may cut down the stalks of the plants till within [less than] a hand high from the ground; he then sows, and, lastly, uproots what he has planted.

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[2] An area of 2500 square amoth equal to the sowing of a saah measure of seed-corn.

[3] As garden-seeds are smaller than corn; whereas, flax-seed, which takes up much more room, is only subject to the same proportion.

§ 5. If his field has been sown with carraway, or לוף,[4] he must not sow any thing over them, as these two kinds do not spring up [ripen] till after three years.[5] If sprouts of isatis[6] have sprung up among corn, or if various kinds of seed have sprung up in the ground of a barn, or if fœnum Græcum[7] spring up, of various kinds, a man is not bound to weed them out; but if he has commenced to weed out or cut down any of them, he is [in that case] bound to destroy all except one kind only.

§ 6. If a man wishes to cultivate his field in patches [streaks or plots], set with different kinds [of seeds or plants], what distance is he bound to leave between the respective plots? Beth Shammai hold, "the distance of three furrows;" Beth Hillel hold, "the width of a yoke, such as is used in plains." Both opinions, however, approximate very closely.

§ 7. There is no legal objection if the point of the angle of [a field sown with] wheat enter into a field of barley; as any one can see to which field the angle belongs. If a man's field be sown with wheat, and the adjoining field of his neighbour with some other kind, there is no objection to his sowing the same kind [of seed] that his neighbour has sown, close to the adjoining field. If his own field be sown with wheat, and the adjoining one of his neighbour likewise, there is no objection to his sowing a furrow [row] of flax between them, but he must not sow any other kind. R. Simeon saith, "Flax forms no exception from other kinds [and is consequently prohibited];" but R. José saith, "Even in the midst of his own field a man may sow a furrow [row] of flax by way of experiment."

§ 8. Mustard or wild saffron must not be sown adjoining a cornfield; but they may be sown adjoining a meadow; also adjoining a field which lies fallow, or one that has been newly ploughed up; also next to a stone wall, or a footpath, or a hedge [fence] ten hands high; or to a trench [ditch], ten hands deep and four hands wide; or next to a tree which trails its branches along the ground; or to a rock [stone] ten hands high and four hands broad.

§ 9. If a man wishes to divide his field into square plots sown with different kinds of seed, he must apportion it into twenty-four squares

[4] Arum [wake-robin].

[5] The expression of the Mishna is obscure, particularly as the two species named ripen annually. Some are of opinion, the Mishna intends to say, that the tenacity of these two species is so great, that after three years they may spring up again.

[6] Woad.

[7] Fenugreek.

to the *beth saah* of seed corn, one square to each quarter of a kab, and he may then sow whatever kind of seed he pleases into each [separate] square. If there be one or two such squares [in a corn-field], a man may sow mustard-seed in them; but if three [such squares] adjoining each other are in a field of corn, he must not sow mustard-seed on them, as the plot of ground would seem to be a mustard field. Such is the dictum of R. Meir; but the sages say, "Nine such squares may be sown with mustard-seed, but ten may not [are prohibited]."[8] R. Eleazar ben Jacob saith, "Though the field be of size sufficient to receive an entire kur[9] of seed, not more than one square must be made in it."

§ 10. Whatever forms part of the superficies of a field, and is of size sufficient to receive a quarter kab of seed, must be included in the computation of the quarter kab. Thus the space round a vine, or a grave, or a rock [stone], must be included in the computation of the quarter kab. [One kind of] corn must be sown [at the distance of] one quarter kab area from [another kind of] corn. Herbs [at the distance of] six hands from other herbs. Corn from herbs, or herbs from corn, [must be sown at the distance of] one quarter of a kab. R. Eleazar saith, "herbs from corn, at the distance of six hands only."

§ 11. One kind of corn inclining over [standing higher than] another kind of corn, or one kind of herbs over another, or corn over herbs, or herbs over corn, are all permitted, except Greek pumpkins. R. Meir saith, "excepting also cucumbers and Egyptian beans; nevertheless I prefer their opinion [that of the sages] to mine own."

CHAPTER III.

§ 1. In a garden bed that is six hands square, five different kinds of seed may be sown, namely, four kinds in the four corners of the bed, and the fifth in the centre. If the bed has a ridge [border], thirteen different kinds may be sown; three in each corner, and one in the middle of the bed;[1] but turnip-tops must be sown on the

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[8] R. Meir holds, "that all the squares are, according to law, arable;" whereas the sages hold, "that alternate squares only are by law permitted to be made arable."

[9] Kur, equal to thirty saah, or one hundred and eighty kab.

[1] Namely, one kind on the even ground, one kind on the acclivity of the ridge, and one kind on the top.

ridge [border] as they fill it. R. Jehudah saith, "six different kinds [may be sown in the middle of the field]."

§ 2. All kinds of field seeds must not be sown in a garden bed; but all kind of herbs [garden seed] may be sown therein. Mustard and small peas are field seeds. Camel [large] peas are garden seed. A ridge [border] that had been one hand high, but is decreased in height, still remains [within the meaning and benefit of the law], because originally it had been of lawful height. In a trench or dry kennel, one hand deep, three different kinds of seed may be sown; namely, one [kind] on each side, and one [kind] in the middle.

§ 3. There is no legal objection, if the point of the angle of a field sown with herbs, enter into another herb field, because any one can see to which field the angle appertains. If, in a field sown with herbs of one kind, a man wishes to set one row of herbs of another species, R. Ishmael saith, "This can only be done if the open furrow [which separates the two kinds of herbs] traverse the whole length of the field [from top to bottom]. R. Akivah saith, "it [the furrow] needs but be six hands long, but must be as wide as it is deep." R. Jehudah saith, "it [the furrow] must be as wide as the sole of a man's foot."

§ 4. It is lawful for a man to set two rows of cucumbers, two rows of pumpkins, and two rows of Egyptian beans, [a furrow separating each kind from the other]; but a single row of cucumbers, one of pumpkins, and one of Egyptian beans, is prohibited. One row of cucumbers, one of pumpkins, one of Egyptian beans, and [then again] a row of cucumbers, are, according to R. Eleazar, permitted; but, according to the sages, prohibited.

§ 5. A man may plant cucumbers and pumpkins in the same cavity [hollow], provided that each kind incline towards its own side [of the cavity]. (Another reading has: "Care must, however, be taken, that the leaves of each kind incline toward its own side only; for all that the sages prohibited in this respect they did on the score of outward appearance only.")

§ 6. If a man's field have been set with onions, and he wish to plant rows of pumpkins in it, R. Ishmael saith, "He must pull up [onions sufficient to make room for] two rows [of pumpkins], and [in the middle of that vacant space] he plants one row [of pumpkins]; he then leaves a plot of onions [equal to the] space [occupied by] two rows of pumpkins, and then [again pulls up onions sufficient to make room for] two rows [of pumpkins], in the middle of which space [he again] sows one row of pumpkins, [and so on

alternately.[2] But R. Akivah saith, "he pulls up [onions sufficient to make room for] two rows [of pumpkins] he then plants [these] two rows of pumpkins, leaves a plot of onions equal to the space occupied by two rows of pumpkins, and then again pulls up onions sufficient to make room for two rows of pumpkins, which [two rows] he sets in the vacant space, [and so on alternately]. But the sages say, "Unless there is a space of twelve cubits between each row of pumpkins, he is not permitted to let that which is between [the two rows] remain in the ground."

§ 7. Pumpkins [may be] planted next to garden seed, [as they] are likewise considered as a garden plant; but if [they are] planted next to corn, a space must be left fallow, of size sufficient to receive one quarter kab of seed corn. If, in a field sown with corn, it is wished to set one row of pumpkins, a clear space of six hands wide must be allowed for its cultivation: should it spread, the corn must be pulled up to make room for it. R. José saith: "a clear space, four amoth wide, must be left for its cultivation." They [the sages] objected, [saying], "Does this species [pumpkins] require greater rigour than the vine does?" but he, [R. José], replied, "We do find that this species [pumpkins] exacts a more rigorous observance than the vine: for a single vine requires that a clear space, six hands wide, be allowed for its cultivation; whereas a single pumpkin must have a clear space, equal to a quarter kab, allowed for that purpose." R. Meir said, on the authority of R. Ishmael, "Whenever three [Greek] pumpkins are set in a field equal to a saah of seed corn, no other kind of seed must be sown [within that area]." R. José ben Hahoteph Ephrati said, on the authority of R. Ishmael, "If three [Greek] pumpkins are set in a field large enough to hold a kur [of seed corn], no other kind of seed may be sown within that area."

CHAPTER IV.

§ 1. A *bald plot* of vineyard must, according to Beth Shammai, "measure twenty-four square amoth;" and, according to Beth Hillel, "sixteen square amoth of any other kind of seed is to be sown therein." The *exterior space* of the vineyard [independent of the plot in question], must, according to Beth Shammai, "measure sixteen;" and, according to Beth Hillel, "twelve square amoth." What is [understood] by [the expression], a *bald plot* of vineyard? Such

[2] The space required for each row of pumpkins is four cubits in width; thus there would be a distance of twelve cubits between each row of pumpkins.

part of the vineyard as is bare of vines. If it be less than sixteen square amoth, no other kind of seed may be sown therein; but if it measure that superficies, a sufficient vacancy is allowed for the cultivation of the vines growing near it, and the rest [of the ground] may be sown on.

§ 2. What is [meant by the expression], the *exterior space* of the vineyard? The space between the vineyard, [the ground on which the vines are set], and the fence [hedge which surrounds it]. If that space be less than twelve square amoth, no other seed is to be sown therein; but if it measure that superficies, a vacant space must be allowed for the cultivation of the vines growing near it, and the rest [of the ground] may be sown on.

§ 3. R. Jehudah saith, "This [last-mentioned space] is only the *fence* of the vineyard. What then does actually constitute the exterior space [in question]? The angle between two vineyards. What is understood by the expression, a fence? A hedge ten hands high, or a trench [ditch], ten hands deep and four wide."

§ 4. A partition [wall] of canes is considered a fence, provided the space between each cane be less than three hands wide, so that a young kid cannot pass through the opening. If there be a breach in the fence to the extent of ten amoth, it is considered as a gate [entrance]. Should a greater portion of the fence be broken down [than ten hands wide], it is unlawful to sow or plant towards [in] the breach. If there are several breaches in the fence, should the portion still standing [erect] be greater than that broken down, it is permitted; but should the portion broken down be greater than that standing [erect], it is prohibited [to plant or sow in or towards the breaches].

§ 5. If a man set five vines in a single row, that, according to Bêth Shammai, "forms a vineyard;" whereas, according to Beth Hillel, "a vineyard is not formed by less than two rows." [Consequently], if a man sow [any kind of seed] within the four amoth [next adjoining the vines], Beth Shammai hold, "that he has consecrated [rendered the produce unlawful], if there be one row of vines;" whereas Beth Hillel hold "that he has not consecrated [rendered the produce unlawful] unless there be two rows of vines."[3]

§ 6. If two vines be set so as to face two vines, and the fifth to form a tail, [point or angle], (thus, ⁘), they constitute a vineyard.

[3] This difference of opinion arises from the circumstance, that single vines require no greater allowance of ground than a square of six hands, whereas, in a vineyard, each vine requires an allowance of four square amoth.

Two vines facing two vines, and one vine between three, (thus, ⁘), or two facing two, and one in the middle, (thus, ⁙), do not constitute a vineyard, as that can only be formed by two facing two, and the fifth [vine] standing out [as a tail or angle].

§ 7. If a man have planted one row of vines on his own ground, and there be another row on the adjoining field of his neighbour, should there be [between the two rows] a private footpath or a public thoroughfare, or a fence less than ten hands high, the two rows must be [considered as] joined, [forming one vineyard]; but if the fence be higher than ten hands, the two rows are not to be [considered as] joined. R. Jehudah saith, "If the vines be trained above the fence they must be [considered as] joined [forming one vineyard].

§ 8. If a man plant two rows of vines, [two in each row], he must not sow any seed in the clear vacant space between them, unless that be eight amoth wide. If he has planted three [such] rows, he must not sow any seed in the clear vacant space between them, unless that be sixteen amoth wide. R. Eleazar ben Jacob said, on the authority of Hananiah ben Hakinai, "Even though the central row should have been destroyed, man must not sow any seed in the clear [vacant space] between the remaining [two] rows, unless it be sixteen amoth wide; although, had but two rows been planted at first, the vacant interval need only have been eight amoth wide."

§ 9. If a man have planted his vineyard at intervals of sixteen amoth, he is at liberty to sow any kind of seed in it. R. Jehudah said, "It happened at Zalmon, that a man had set his vineyard at intervals of sixteen amoth. One year he trained the branches of every two rows in one direction, and sowed in the opposite direction; and the next year he trained the branches in another direction, and sowed on the ground that had lain fallow. The matter was brought before the sages, and they sanctioned [his manner of proceeding]." R. Meir and R. Simeon say, "He who sets his vineyard at intervals of eight amoth, is also at liberty to sow in it."

CHAPTER V.

§ 1. A vineyard that has been destroyed, but still contains ten vines [from which grapes may be gathered], planted in regular order on a superficies large enough to receive a saah of seed-corn, such a vineyard is called a *poor vineyard*. Should the vines therein be planted irregularly, as long as there remain two vines [set in due order] facing three, it still continues a vineyard in a legal sense,

but if not, it is [in law] a vineyard no more. R. Meir saith, "As long as it retains the appearance of a vineyard it remains one [in a legal sense]."

§ 2. A vineyard [in which the vines are] planted, at less intervals than four amoth, R. Simeon declares to be no vineyard [in a legal sense]; but the sages decide that it is a vineyard [in law], but that the vacant space [between the vines] must be considered as non-existing.

§ 3. Should a trench ten hands deep and four wide traverse the vineyard, R. Eleazar ben Jacob saith, "if it be open from one end of the vineyard to the other, it must be considered as if running between two vineyards, and may be sown in; but if not, it must be considered as a vinepress." Now, respecting a vinepress ten hands deep and four wide, R. Eleazar holds that it is lawful to sow therein, but the sages declare it not lawful. On a mound [barbican] ten hands high and four hands wide, [situated] in a vineyard, it is lawful to sow; but if the branches [of the vine] be trained or entwined over it, it is unlawful [to sow thereon].

§ 4. If a vine be planted in a vinepress, or a cavity, sufficient space is to be allowed for its cultivation, and the remainder [of the soil] may be sown in. R. José saith, "If there be less than four amoth space, no other kind of seed may be sown therein." It is permitted to sow in a house that stands in a vineyard.

§ 5. If a man plant herbs in a vineyard, or let them remain therein [after he sets the vines], he consecrates [renders unlawful the produce of] forty-five vines. When [is this the case]? If the vines be set at intervals of four or five amoth: but if they are set at intervals of six or seven amoth, he has only consecrated a radius of sixteen cubits in every direction of a circle, but not of a square.

§ 6. If a man perceives herbs growing in his vineyard, and says, "When I get yonder [to the spot where they grow] I will pull them up," he is permitted so to do; but should he say, "When I come back again I will pull them up," and during his absence they [the herbs] grow one two-hundredth part, the vineyard becomes subject to the prohibitory enactment.

§ 7. If a man, going through his vineyard, has accidentally dropped seeds therein, or if they have got in with the manure or the water, or the wind has wafted seeds backward into the vineyard, and they have sprung up, it is not unlawful; but if the wind has carried seeds forward into the vineyard, R. Akivah saith, "if the seeds have sprouted, he must plough up the ground; if they be shot up into ears

of corn, he must knock the grain out of the ears; but if the corn be ripe, it must be burned."

§ 8. If a man permit thorns to stand in his vineyard, R. Eleazar saith, "he hath [thereby] consecrated his vineyard [rendered its produce unlawful]:" but the sages say he has not; inasmuch as the vineyard becomes subject to the prohibition only, though [by means of] such seeds or herbs as it is customary to grow in a vineyard; אִרוּם[1] קִיסוּם[2] and the king's lily, and, in general, all kinds of field herbs are not kilaim in a vineyard; hemp is, according to R. Tarphon, not kilaim; but the sages hold that it is; קִינָרָס[3] is kilaim in a vineyard.

CHAPTER VI.

§ 1. What is meant by עֲרִיס [a kind of espalier on which vines are trained]? When a row of five vines is planted near a hedge [wall] ten hands high, or near the side of a trench [ditch or cavity] ten hands deep and four wide, in that case, four amoth must be left for the cultivation of each vine, which [space] must, according to Beth Shammai, "be measured from the stem of the vine towards the field [ground];" but according to Beth Hillel, "from the hedge to the field." R. Jochanan ben Nourie saith, "Whosoever adopts either of these opinions is in error; for the Law is—If there be a space of four amoth from the stem of the vine to the hedge [or trench], the room necessary for the due cultivation of the vine must be allowed [for that purpose] and the remainder of the ground may be sown on." What constitutes the room [space] necessary for the due cultivation of the vine? Six hands in every direction. R. Akivah saith, "three hands only are required [in every direction]."

§ 2. If an espalier of vines overhangs the steps of a terrace [on a hill], R. Eleazar ben Jacob saith, "When all the grapes can be gathered by a person standing on the [even] ground, four amoth [space] must be left beyond the espalier, within which [four amoth] it is prohibited to sow; but when the grapes cannot all be gathered by a person standing on the [even] ground, the prohibition [to sow] is limited to the spot covered by the espalier. R. Eleazar saith, "If a man has planted one row of vines on the even ground, and another row on the steps of a terrace, should the terrace have an elevation of

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[1] Sisymbrium Iris [a kind of colewort].
[2] Supposed to be hedera [ivy].
[3] Cynara [artichoke].

ten hands from the ground, the two rows need not be considered as connected; but they must be so considered if the height of the terrace be less than ten hands.

§ 3. When vines have been trained over part of the laths of a trellis, it is unlawful to sow under the remaining part [on which there are no vines]; should however any kind of seed have been thus sown, that does not consecrate the vine [render its produce unlawful]; but when the young shoots of the vine have spread over the whole trellis, whatsoever is sown underneath is unlawful. Such is likewise the case if a vine be trained over any portion of a wild tree, אִילָן סָרָק.

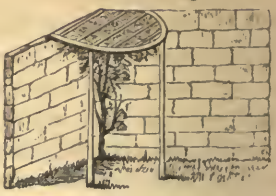
§ 4. When vines are trained over part of a fruit-tree [not wild], it is lawful to sow under the remaining part of the tree; and should even the young shoots of the vine have spread beyond it, they may be bent [or drawn] back, and it is lawful to sow beneath. It once happened that R. Joshua came to R. Ishmael, in the village Aziz, when R. Ishmael shewed him a vine which had been trained over part of a fig-tree, and asked, "May I sow under the remaining parts of the tree?" R. Joshua replied, "[You may]; it is lawful." He then took R. Joshua to a place called Beth Hamaganya, and shewed him a vine trained over a thick bough [or arm] of a sycamore-tree, from which many other boughs branched out, [and repeated the question], when R. Joshua decided that it was only unlawful to sow under the particular bough on which the vine had been trained; but that under all the other boughs it was lawful [to sow].

§ 5. What is meant by the expression אִילָן סָרָק a wild tree? All trees which are not fruit-bearing. R. Meir saith, "Excepting only the olive and the fig-tree, all [other] trees are called אִילָן סָרָק." R. José saith, "All trees with which it is not usual to plant entire fields [orchards], are called אִילָן סָרָק wild trees."

§ 6. The פסקי עריס, or those parts of an espalier of vines which are no longer covered with vines, must be of the extent of eight amoth, and something more, in order that it may be lawful to sow underneath. Of all the measurements established by the sages, when treating of vineyards, this is the only instance in which they require "something more," beyond the fixed measure. The expression פסקי עריס, "part of an espalier of vines," is used when the middle of such an espalier has been destroyed, but five vines still remain on either side; if the open space between the two sides is only eight amoth, it may not be sown in; but if it is eight amoth and something more, the necessary room must be left for the due culti-

vation of the vine, and the remainder [of the open space] may be sown in.

Fig. 1.



§ 7. When an espalier of vines, proceeding from the corner of a wall, extends beyond it (vide Fig. 1), room must be left for the due cultivation of the vines, and the rest may be sown on. R. José saith, "if this space doth not contain four amoth, it may not be sown on."

§ 8. It is lawful to sow under such reeds [extending beyond the vine-espalier] as a person does not wish to cut away; but if these reeds have been thus placed with the intention to train the young shoots of the vine on them, it is not lawful to sow under them.

§ 9. When branches of vines extend beyond the espalier, it is to be considered as if a plummet were pending from these branches, and all that space which comes within and under the perpendicular line of the plummet, it is unlawful to sow on. Such is likewise the case with the extending branches of a single vine. When vine-branches have been drawn from one tree to another [to connect them], it is prohibited to sow underneath them; but if they have been fastened by means of a rope [line] or [a band of] reeds, it is lawful to sow under the line; but if it [the rope] has been thus placed in order to train the young shoots of the vine thereon, it is not lawful to sow underneath.

CHAPTER VII.

§ 1. When a vine is bent, and the tops of its branches set in the ground [to propagate], it is not lawful to sow therein, [even beyond the legal distance], unless the bent tops are covered with mould three hands high. [Such is also the law] should the vine have been drawn through a dry gourd or a tube; but if it be drawn over rock or stone it is lawful to sow thereon, although the soil with which it is covered be no higher than three finger breadths. If a vine has been bent in such a manner that the main stem is out of sight [under ground] the measure, [as to legal distance], must be calculated from the second stem; *i. e.* the place where it rises from the ground and again becomes visible.

§ 2. If three vines are bent, [and partly covered with mould], should their stems remain visible, R. Eleazar ben Zadock saith, "If

there remain between them not less than four, nor exceeding five amoth in width, they [the vines] must be looked upon as connected; otherwise, they are not so to be considered." It is likewise prohibited to sow near a withered vine: should this, however, have been done, it will not consecrate [the produce]. R. Meir saith, "It is, in like manner, prohibited to set a cotton plant in a vineyard; nevertheless, if it has been done, it will not consecrate the produce [of the vineyard]." R. Eleazar ben Zadock saith, in R. Meir's name, "it is equally prohibited to set it [the cotton-plant] over a covered vine; but if this has been done it will not have the effect of consecrating [the vine]."

§ 3. In the following places it is prohibited to sow, but if, nevertheless, this has been done, it will not consecrate the proceeds of the seed: these places are, the remainder of an incomplete plot of ground in the vineyard, [which does not contain the space required by law]; the remainder of an incomplete exterior space in the vineyard, [which is beyond the legal distance]; the remainder of an incomplete space between parts of an espalier of vines; and the remainder of an overhanging trellis; but whatsoever is sown under the branches of the vine, in the space legally required for its cultivation, or within the four amoth of the vineyard, becomes consecrated, [and the produce unlawful].

§ 4. If a man train his own vine over his neighbour's corn, it will thereby become consecrated, and he is bound to make good to his neighbour the damage he thus has caused him; but R. Joseph and R. Simeon say, "No man can legally consecrate that which is not his own, [does not belong to him]."

§ 5. R. José saith, "It once happened that a man had sown his vineyard during the seventh [sabbatical] year.[1] The case came before R. Akivah, who said, 'No man can legally consecrate that which does not belong to him.'"

§ 6. If a person has forcibly possessed himself of a vineyard, sown in it, and then left it, the rightful owner, on recovering possession, must have it cut down [immediately], even if on the middle days of the festival. To what extent is he [the owner] bound to go in respect to the hire of labourers, [in case they refuse to work during the middle days at the usual rate of wages]? To the extent of one-

[1] Because, during the sabbatical year, the spontaneous, as well as all other fruits, both of field and vineyard, do not belong to the owner of the soil, but become public property, given to the poor.

third[2] [beyond the usual rate]. Should the labourers exact more, the owner is not bound to comply with their demand; but may have it cut in the usual way, after the festival. From what period is the vineyard called that of the forcible [wrongful] possessor? When the name of the right owner is forgotten.[3]

§ 7. Vine branches which by a high wind have been cast among corn, [and have taken root], must immediately be cut down; but if, owing to accidental circumstances, the owner has not done so, the vine and the corn are allowed to be used. If corn or pot-herbs incline towards a vine, they must be put back, but, [if this is not done], it will not consecrate the produce. From what time does grain [planted near a vine] become consecrated? From the time it strikes root; and the grapes from the time they reach the size of a white bean. If grain is completely dry [if it be cut down] when a vine is planted near it, or if the grapes are fully ripe [when corn is sown], it does not cause either to be consecrated.

§ 8. When, near vines, any thing is sown in a pot with holes, it causes consecration; but, if sown in a pot without holes, it does not. R. Simeon saith, "Both are, indeed, prohibited, yet if it has been done, it does not consecrate the produce of the vine." Should a pot, with any thing sown in it, be carried through a vineyard, [and some of the contents have dropped out, and taken root], it [the fruit of the vineyard] is prohibited as soon as the seed is grown a two-hundredth part.

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[2] Or, according to another opinion, one-third part of the whole property.

[3] Such is the explanation of the Talmud and Jarchi on this most obscure and difficult passage, but which explanation seems altogether incongruous. It appears that, during the Roman supremacy in Judea, it was common for the sub-officers and chiefs of the legions to seize on vineyards and lands, which they caused to be cultivated for their own use, and held possession of, until the legions they belonged to were quartered elsewhere. It is to such a forcible detention that the text seems to allude; and it uses the word משישקע as long as he maintained possession, in which the right owner was unable or afraid to disturb him.

The question of the Mishna seems to be, What term of possession by the אנס [forcible intruder] absolves the rightful owner from the responsibility, or exempts him from the penalty of kilaim? And the answer is, As long as that intruder maintains possession, be the period short or long. Such, at least, appears the plain and rational explication of the text, which is very obscure.

CHAPTER VIII.

§ 1. It is prohibited to sow kilaim in a vineyard, to allow it to grow if it has sprung up spontaneously, or to receive any benefit therefrom. It is prohibited to sow kilaim of seeds, and to allow it to grow; but it is lawful to eat of it, and, *à fortiori*, to derive benefit therefrom. Kilaim of clothing may lawfully be applied to any purpose, except that of dressing or clothing one's self therewith. It is permitted to rear kilaim of cattle; but it is unlawful to breed from them; and also to cause them to copulate with each other, [as a mule, gotten on a mare by an ass, with one by a stallion out of a she-ass].

§ 2. It is prohibited to plough with, to cause to draw, or to drive a team composed of domestic animals of diverse kinds, or of wild animals of diverse kinds; or with a team composed of a domestic animal and a wild one, a wild with a domestic one, an unclean beast with a clean one, or a clean with an unclean one.

§ 3. Whosoever drives [a team] of kilaim shall bear the punishment of the forty [stripes]; and whoever sits in the waggon or carriage is also liable to the punishment of forty stripes; but R. Meir absolves the last named [person]. It is also prohibited to fasten to a team a third animal not of the same kind as the other two, [as an ass to a team of two oxen], even though it should not assist in drawing.

§ 4. It is prohibited to tie a horse [in order to break it in], to the sides of, or behind, a waggon [drawn by oxen], and also [to tie], for the purpose of draught, [a Lybian ass][1] with a camel. R. Jehudah saith, "Whatever is foaled by a mare may be joined with each other, although the sire should have been an ass; and, in like manner, whatever is foaled by a she-ass may be joined together, although the sire should have been a horse; but it is unlawful to join what has been foaled by a mare with that which has been foaled by a she-ass."

§ 5. It is prohibited to cause the פרוטיות[2] to copulate; but it is

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[1] Heb. לוברקים The explanation of Maimonides and Bartenora has here been adopted. They state it to be a kind of ass, greatly exceeding the ordinary size, and resembling the camel.

[2] Mules, of which it cannot be ascertained whether the dam was a mare or a she-ass.

allowed to do so with the רמך.[3] The ארני שדה[4] is a wild animal; R. José saith, "its dead carcase, even like that of a human being, causes all that is under the cover of a tent to contract pollution." The porcupine and the חולדת הסנייס[5] will, as R. José says, according to Beth Shammai, "cause a person to contract pollution who has carried any portion of their carcases, which has the size of an olive, or who has touched any part of it of the size of a lentil."

The urus, or buffalo, must be considered as a domestic animal; R. José, however, saith, "as a wild animal. The dog as a wild animal;" but R. Meir saith, "as a domestic one." The hog as a domestic animal; the zebra as a wild animal. The elephant and the monkey as wild animals. It is lawful for a human being to draw, plough, or drive [together] with any of these animals.

CHAPTER IX.

§ 1. On the score of kilaim in clothing nothing is prohibited, excepting only woollen with linen; and no garments pollute through leprosy but those made of wool and of flax. The priests, while ministering in the holy Temple, wear no other garments but such as are made of wool or of flax. Camel's wool, [or hair], which has been mixed with sheep's-wool, should the larger proportion be of the camel, it is lawful to add flax thereto; but should the larger portion be of the sheep, such addition is prohibited: if the proportions are equal, it is likewise prohibited. Such is also the case where hemp and flax have been mixed together.

§ 2. Chinese silk and floss silk [*i. e.* the outward coating of the silk-worm's cocoon or ball, which coating resembles wool], although not considered as kilaim, are nevertheless prohibited to be worn together, on account of their appearance. Bolsters and pillows are

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[3] The term בני הרמכים has, in the English version of Esther, been rendered (viii. 14), "mules and camels," which cannot be meant here; but the true meaning, and which fully applies here, appears to be that given by Aben Ezra, i. his Commentaries on Esther, *ad loc. cit.* "Mules foaled by mares, which are stronger than those foaled by she-asses."

[4] The description of this animal, given by various commentators of the Mishna, is, that of an absolutely fabulous one, which cannot have been meant by the text. According to Dr. Jost's surmise, "It may be a kind of ape, perhaps an ouran outang, or Chimpanzee."

[5] Wild weasel. According to others, a Chinese weasel; but, according to the opinion of Maimonides, "a kind of fox or martin."

not subject to the rules of kilaim, provided man's flesh do not touch them. Kilaim may not be worn even for an instant, nor may it be put on even over ten other garments, nor yet for the purpose of avoiding oppressive duties.

§ 3. Towels, mantles [for the rolls of the law], and bathing cloaks, are not subject to the laws of kilaim. R. Eleazar, however, prohibits them. Barbers' cloths are prohibited on the score of kilaim.

§ 4. Shrouds for the dead, and saddle-cloths of an ass, are not subject to the law of kilaim; but the latter must not be borne on the shoulder, even to carry dung therein.

§ 5. Dealers in clothes may, according to their custom, carry garments of kilaim for sale; but they may not carry them with the intention of protecting themselves therewith in warm weather against the sun, or in wet weather against the rain. Those, however, who are particular [in the observance of the law], tie the garments on a stick, and carry them over their shoulders.

§ 6. Those who sew garments [tailors], may sew clothes of kilaim in their usual way [placing the garment on their laps], but they must not so place it with the intention of protecting themselves therewith, in warm weather against the sun, or in rainy weather against the wet. Those, however, who are particular [in the observance of the law], place the garment on the ground to sew it.

§ 7. ברסין [a kind of woollen counterpane, *Lat.* birrus], and ברדיסין [a kind of woollen blanket, *Lat.* bardiacus], and דלמטיקין [*Lat.* dalmatica, or dalmatian cloaks], and פינון [*Greek* πινος, hose made of uncombed wool], are not to be worn until they have been examined. R. José saith, "that examination is not necessary with those which come from the sea-coast, or are brought from beyond seas," because the legal presumption is, that they have been made of hemp. Shoes or boots made of skin and lined with felt, are not subject to the law of kilaim.

§ 8. Nothing is prohibited on the score of kilaim but what has been spun and woven; as it is said Deut. xxii. 11, "Thou shalt not wear שעטנז, a garment of divers sorts," [i. e. that which is hackled, spun, and twisted]. R. Simeon ben Eleazar saith, "Whosoever wears kilaim deviates from the right path, and causes his heavenly Father also to deviate from him."

§ 9. It is prohibited to mix felt [with flax], because it is made of combed wool; it is also prohibited to put a hem or border of wool to a garment of linen, because it resembles the other [woven] part. R. José saith, "It is prohibited to tie a scarlet woollen band [over a

linen shirt], because it is sewn on before it is tied; also to tie a woollen cord or band to a linen one, to gird one's loins withal, even though there should be a leather strap between [the two bands]."

The letters with which weavers and laundresses mark linen [and other garments], are subject to the law of kilaim [so that linen must not be marked with woollen thread; and *vice versâ*]. If a needle [threaded either with linen or woollen thread] has been passed once only through a garment [without drawing it back through another place, thereby forming a stitch], it causes no connection, and is consequently not kilaim, and it is permitted to withdraw it on the Sabbath-day. But if the needle has been passed through twice, so that both ends of the thread are on the same side [of the stuff out of which the garment is made], that is a connection, and whoever withdraws it on the Sabbath-day is guilty. R. Jehudah saith, "it is necessary that the needle should have passed through three times." A sack and a wicker basket, to which a piece of linen or of woollen is tied, are kilaim [if sewn together].

V. TREATISE SHEBIITH.

[Treats of laws relating to the Seventh Sabbatical year, founded on Exod. xxiii. 10, Lev. xxv. 1, and Deut. xv. 1.]

VI. TREATISE TEROOMOTH.

[Contains laws founded on Num. xviii. 8, relating to the heave-offering, consecrated to the use of the priesthood].

VII. TREATISE MAASEROTH.

[Contains laws relating to the first tithes, founded on Lev. xxvii. 30, and Num. xviii. 28].

VIII. TREATISE MAASAR SHENI.

[Contains laws relating to the second tithes, founded on Deut. xiv. 22, and xxvi. 14].

IX. TREATISE CHALAH.

[Contains laws relating to the first dough, founded on Num. xv. 20.]

X. TREATISE ORLAH.

[Relates to uncircumcised trees, i. e., trees newly planted, the fruits of which must not be eaten during the first three years, and which are consecrated during the fourth. The rules and regulations on this subject are founded on Lev. xix. 23.]

XI. TREATISE BIKOORIM.

[Contains laws relating to first-fruits, founded on Exod. xxiii. 19, and Deut. xxvi. 1.]

Which closes the first Seder Zeraim [of seeds] containing Agrarian Laws.

סדר מועד

XII. TREATISE SABBATH,

CONTAINING PRECEPTS FOR THE DUE OBSERVANCE OF THE SABBATH-DAY.

Introduction.

The commandments on which these precepts are founded, or from which they are derived, are contained in various places of the Pentateuch. The fourth commandment of the Decalogue enacts:—"Remember the Sabbath-day to keep it holy. Six days shalt thou labour and do all thy work, but the seventh day is the Sabbath of the Lord thy God; in it thou shalt not do any work, thou, nor thy son, nor thy daughter, nor thy man-servant, nor thy maid-servant, nor thy cattle, nor thy stranger that is within thy gates. For in six days, the Lord made heaven and earth, the sea, and all that is therein, and rested the seventh day; wherefore the Lord blessed the Sabbath-day and hallowed it." (Exod. xx. 8—11.) And again: "Keep the Sabbath-day to sanctify it, as the Lord thy God hath commanded thee: Six days thou shalt labour, and do all thy work; but the seventh is the Sabbath of the Lord thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, nor thy man-servant, nor thy maid-servant, nor thine ox, nor thine ass, nor any of thy cattle, nor thy stranger who is within thy gates; that thy man-servant and thy maid-servant may rest as well as thyself: and remember that thou wast a servant in the land of Egypt, and that the Lord thy God brought thee out thence, through a mighty hand, and by a stretched-out arm; therefore the Lord thy God commanded thee to keep the Sabbath-day" (Deut. v. 12—15.)

In various other parts of the Pentateuch the due observance of the Sabbath is again and again enforced; sometimes briefly mentioning the day as one to be kept inviolate and holy: and sometimes with greater emphasis, referring to the history of creation, and establishing the observance as a sign and covenant between the Lord and Israel. Such texts are Exod. xiii. 12; xvi. 15; xxxi. 13—17; xxxiv. 21; xxxv. 1—3: Lev. xix. 29; xxiii. 32: Num. xv. 9, &c. But while the general principle is thus frequently inculcated, its special application, and specific enactments as to what constitutes a violation of the Sabbath, are nowhere carried out fully in the Pentateuch, so that there are but few texts of the law which serve as a direct basis for the minute and numerous enactments of the oral law.

The Mishna enumerates 39 *aboth*, or principal occupations, the carrying on of either of which constitutes a violation of the Sabbath. Every other kind of work becomes illegal, only when it can be ranged under one or other of these principal occupations. Thus, for instance, under the principal occupation of ploughing, every analogous kind of work, such as digging, delving, weeding, dunging, &c. must be ranged. In addition to these thirty-nine principal occupations, and their accessaries and derivatives, there are certain other acts which are especially prohibited in the oral law, as tending to violate the Sabbath-rest [שַׁבָּת]. In the violation itself various degrees of culpability are established, and of punishment awarded. All these subjects relating to the due observance of the Sabbath, and pointing out its violation in every possible way, form the contents of the Treatise Sabbath.

In order properly to understand this Mishna, and to avoid tedious repetitions, it is necessary to begin by noticing certain general principles, and technical expressions, which predominate in the text,

Wherever, throughout the Mishna, the expression חַיָּיב guilty or פָּטוּר absolved, is used, the meaning is:—of the first [guilty] that the wanton transgressor forfeits his life: if there be evidence sufficient to convict him, he is stoned to death: in the absence of proper evidence, should the offender, after having been cautioned, repeat his guilt, he is liable to be "cut off from his people" [כָּרֵת][1]: and that he who unwittingly or inadvertently offends, must bring the sin-offering prescribed in the law. The second expression [absolved] means that the accused is absolved from either of these extreme

[1] By the act of God.

punishments, but not from the stripes which the Beth-Din has the power to inflict. So that (with some few exceptions only) the deed he has been charged with is in no instance sanctioned, or declared to be permitted.

If through the doing of something not prohibited, some other (prohibited) occupation is inadvertently entered upon, it constitutes no offence. But this must not be done intentionally, nor the lawful occupation be entered upon, with the covert purpose of making it serve as a cloak to do that which is prohibited.

In the degrees of violation, the nature of the occupation is to be considered, as various kinds of work may be required to carry out and complete one occupation; so that the offender becomes amenable to several punishments. On the other hand, the rule is laid down, that such occupations as only destroy, but do not produce, do not constitute guilt, (in the rigorous sense of the word); nor yet does such work, of which an imperfect or incomplete part only has been done.

The prohibition to carry or convey any object from one place to another, which, in Chap. I, § 1, of this treatise, is called יְצִיאַת הַשַּׁבָּת, and forms the thirty-ninth of the principal occupations, requires particular attention and explanation, from the complexity of cases to which it gives rise. All space was, by the Tanaim, divided into four classes:— 1st, רְשׁוּת הָרַבִּים, public or common property, to which all men have an equal right: as a highway; any street not less than sixteen *amoth* wide, uncovered and open at top and bottom; every market-place, &c. 2nd, רְשׁוּת הַיָּחִיד, private property: any place surrounded or inclosed by a wall or a ditch ten hands wide and four deep; also the ditch itself; any city encompassed by walls with gates that are closed at night, &c. 3rd, כַּרְמְלִית, (derived either from the Hebrew *Carmel*, forest or lonely spot, or from the Greek κηραμις *keramis*, a corner, or hollow way), that which does not belong to either of the other two; because it lies entirely open, like the sea or a plain; or because it is enclosed on three sides only, and open on the fourth, &c. 4th, מָקוֹם פָּטוּר, a free place, one which is more than three hands deep or high, but not more than four hands square in width, such as a column or small cavity, &c. When in the text of the Mishna the question is about carrying and conveying from one place to another, it does not apply to the "free place," as that is not subject to any legal enactments. Moreover, the open air above private property has no legal limitation, whereas that over public property, or *carmelith*, only belongs thereto to the height of

ten hands. The carrying or conveying from one *reshuth* to another does not constitute a complete or perfect action, unless the same person who takes a thing from the place it occupies, deposits it in another place.

These preliminary remarks, so much more extended than those prefixed to any other treatise, are absolutely required to obtain a correct and comprehensive view of general principles, and will serve as references, to avoid frequent and tedious repetitions.

CHAPTER I.

§ 1. The prohibition to carry or convey [from one reshuth[1] into another] on the Sabbath, is twofold; which [according to the decision of the sages], form four [prohibitions for him who is] inside [of the reshuth]; and also twofold which [according to the decision of the sages], form four [prohibitions for him who is] outside [of the reshuth]. How is this to be understood? A mendicant stands outside [of the private property], and the master of the house inside [of it]:[2] should the mendicant put his hand in [to the private reshuth], and [either] put [his wallet] into the master's hand, or take something out of it [the master's hand into his own], and draw his hand back, [into the public reshuth, in which he is standing], the mendicant is guilty, but the master of the house is absolved. Should the master stretch out his hand [into the public reshuth in which the mendicant is standing,] and put [his gift] into the hand of the mendicant, or take [the wallet] out of it, and draw his hand back [into the house or private reshuth in which he is], the master of the house is guilty, but the mendicant is absolved. Should the mendicant put his hand in, and the master take [the wallet] out of it, or put [his gift] into it, and the mendicant [then] draw his hand out, both are absolved. Should the master stretch out his hand, and the mendicant take [the gift] out of it, or put [his wallet] into it, both are absolved.[3]

§ 2. A man is not to sit down to the barber, near the time of מנחה until he has said his prayers;[4] nor must man [about that

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[1] Property or space, vide Introduction.

[2] The illustration purposely chosen is an act of charity, to shew that no deed, however commendable in itself, can authorise a needless infraction of the law.

[3] In the first two instances the mendicant and the master respectively completed the carrying, each of them conveying the gift or wallet from one reshuth to the other. In the last two instances the act of either was incomplete.

[4] Vide Treatise Berachoth, ch. IV. § 1. This rule also applies to the week day.

time on the Sabbath-eve] visit the bath, or the tan-yard; he must not sit down to his meal, nor yet in judgment; but if he have begun [to do either] he needs not leave off. [The study of the Law] is to be interrupted for the Shemang, but not for the Tephilah.[5]

§ 3. The tailor must not go out with his needle near dusk [on the Sabbath-eve], lest he forget and carry it out with him [during the Sabbath]. The scribe [writer] is not to go out with his writing-reed [pen]; nor must a man cleanse his garments of vermin, or read by candle-light [on the Sabbath-eve]. They [the sages] have indeed permitted [that] a teacher may superintend children, who are reading [by candle-light], but he [himself] must not read. From the same motive [to avoid the possible occasion to sin] a man afflicted with a running issue, must not take his meals with a woman afflicted with the same disease.[6]

§ 4. The following are among the decisions enacted in the Upper Hall of Hananiah, the son of Hezekiah, the son of Giorion, when they [the sages] went thither, and went up to visit him. On that occasion the sages present were counted, and [the sages of] the school of Shammai were found to be more numerous than [those of] the school of Hillel. On that day eighteen enactments were decreed.

§ 5. Beth Shammai declare it unlawful to soak the materials for making ink, or drugs for dying, or vetch [to feed cattle] [on the Sabbath-eve], unless there be time sufficient to soak it through, during the day [before the Sabbath comes in]: but Beth Hillel permit it.

§ 6. Beth Shammai declare it unlawful to put bundles of flax into the oven [on the Sabbath-eve], unless there be time sufficient to steam [dry] them during the day; nor to put wool into the dye-kettle, unless there be time sufficient for the wool to imbibe the dye during the day [before the Sabbath comes in]: all of which Beth Hillel permit. Beth Shammai declare it unlawful to spread [set] nets for game, fowl, or fish [on the Sabbath-eve], unless there be time sufficient for it to be caught therein during the day [before the Sabbath comes in]: but Beth Hillel permit it.

§ 7. Beth Shammai declare it unlawful to sell any thing to a heathen [on the Sabbath-eve], or to help him to load, or to load for him, unless there be time sufficient for him to reach a neighbour-

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[5] Vide Treatise Berachoth, chap. II. § 4.

[6] As both are unclean, and excluded from general society, their being left alone together might lead to improper intercourse.

ing town [or village] during the day [before the Sabbath comes in]: but Beth Hillel permit it.

§ 8. Beth Shammai declare it unlawful to deliver skins to a heathen tanner, or clothes to a heathen laundress [on the Sabbath-eve], unless there be time enough for them to be got ready during the day [before the Sabbath comes in]: all of this Beth Hillel permit to be done, while the sun remains above the horizon.

§ 9. R. Simeon ben Gamaliel saith, "It was the custom in my father's house, to deliver white garments to the heathen laundress three days before Sabbath." [Both schools] agree, that it is permitted to put blocks on the oil-press, and the round logs on the wine-press near the coming in of the Sabbath].[7]

§ 10. Neither meat, onions, nor eggs, must be fried [on the Sabbath-eve], unless there be time sufficient for them to get quite done during the day [before the Sabbath comes in]. Bread must not be put into the oven towards dusk [nightfall] on the Sabbath-eve, nor cakes on the coals, unless there be time enough for the surface to become crusted during the day [before the Sabbath comes in], R. Eleazar saith [unless there be time sufficient for] the bottom to become crusted.

§ 11. It is permitted to put the paschal offering into the oven towards dusk on the Sabbath-eve.[8] And the priests [in the Temple] may stir the fire a little in the hearth-room,[9] but in other halls [of the Temple] only if there is time sufficient for the fire to seize on the greater part of the wood. R. Jehudah saith of coals, "if any part of them be ignited [before the Sabbath come in]."

CHAPTER II.

§ 1. With what [species of wick] may [the lamps] be lighted [on the Sabbath]? and with what may [they] not be lighted? [They] may not be lighted with the moss [that grows upon] cedars, nor with undressed flax, nor with floss-silk,[1] nor with a wick made of osier, nor with thread [made of a kind of grass growing] in the

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[7] Although the continued pressure of the logs extracts the juice of the olive or the vine on the Sabbath.

[8] If the 14th of Nisan fell on a Friday, which thus became the eve of the festival as well as of the Sabbath.

[9] A hall in the Temple, in which a fire was constantly kept up, and in which the ministering priests used to warm themselves.

[1] The outward coating of the silkworm's cocoon, or ball.

wilderness, nor with the weeds [growing] upon the water;[2] [they may not be lighted] with pitch, nor with wax, nor with oil of קיק,[3] nor with [consecrated] oil [profaned and set apart] for burning, nor with [the fat from] the tails [of sheep], nor with tallow. Nahum, the Mede, opines that [they] may be lighted with boiled [or clarified] tallow; but the sages hold, that whether it be boiled or not boiled it may not be used to light therewith.

§ 2. [They] may not be lighted [even] on festivals with oil [set apart] to be burnt. R. Ishmael saith, that for the honour of the Sabbath [they] may not be lighted with the dregs of pitch; but the sages allow all [sorts of] oils: with oil of nuts, with oil of radish [seed], with oil of fish, with oil of gourd seed, with oil of the dregs of pitch, and with naphtha. R. Tarphon saith, they must not be lighted but with oil of olives only.

§ 3. Nothing which grows from [the wood of] a tree is proper to light with but flax;[4] and whatever grows from [the wood of] a tree cannot be polluted by the pollution of a tent[5] but flax. A slip of cloth which has been folded but not singed, R. Eleazar saith it is unclean, and must not [be used to] light with; [but] R. Akivah opines [that] it is clean, and [may be used to] light with.

§ 4. A person may not perforate an eggshell, and fill it with oil, and place it over the lamp, that it may drop [therein], and although it be of earthenware [it is not permitted]; but R. Jehudah allows it. But if the potter had originally thus joined it, it is allowable, because it is then but one vessel. A person may not fill a dish [with] oil and place it beside the lamp, and put the end of the wick into it, so that it may attract [the oil]; but R. Jehudah permits it.

§ 5. He who extinguishes the lamp because he is afraid of heathens,[6] of robbers, of an evil spirit,[7] or that the sick may sleep, is absolved; but [if his intention is] to save his lamp, oil, or wick, he

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[2] According to R. Obadiah de Bartenora, a kind of weed that adheres to ships which have been long at sea, or long in one place.

[3] An oil extracted from the seed of the cotton-plant; or, according to another opinion quoted by Bartenora, a thick oil extracted from a species of gourd.

[4] Because the Scripture styles it עץ [tree], Josh ii. 6.

[5] Vide Num. xxix. 14, &c.

[6] During the Persian dominion, the magi would, in some of their festivals, suffer no fire or light to be burned out of their temples.

[7] According to Maimonides, a species of melancholy, which causes the sufferer to be easy in darkness only, or in solitude.

is guilty; R. José allows it in either case except the wick, because he thereby forms a coal.

§ 6. For three transgressions women die in childbirth: because they are not careful of their separation at proper periods,[8] of separating the first cake of the dough,[9] and of lighting the lamp [for the Sabbath].

§ 7. A man is obliged to inquire concerning three things in his house on the eve of the Sabbath, near the dusk of the evening:—Have ye separated the tithe? Have ye prepared the Sabbatical mixture [erub]? Light the lamps.

§ 8. If it is doubtful whether it be dark or not,[10] the certainly untithed [grain or fruit] are not to be tithed; neither must the vessels be immersed, nor the lamps lighted; but it is permitted to tithe that which is doubtful, prepare the Sabbatical mixture, and cover [the pots of victuals to retain their heat.]

CHAPTER III.

§ 1. On a double hearth [range],[1] cooked victuals may be put [shortly before the Sabbath], if it be heated with stubble or brushwood; [but if it be heated] with olive-kernels or wood, they must not put [victuals thereon], until [the lower compartment be] cleaned out, or covered with ashes. Beth Shammai hold [that] warm water [only], but not cooked victuals [may be placed on a hearth or range so heated]; but Beth Hillel hold, that [both] warm water and cooked victuals [may be placed thereon]. Beth Shammai hold that they [may] take [any thing] off [the hearth], but [must] not put [it] back [thereon]: but Beth Hillel hold that they may also put [it] back.

§ 2. If an oven is heated with stubble or brushwood, nothing must be put either into it or at the top of it. A single hearth which has been heated with stubble or with brushwood, is [considered] like a double one; but [if heated] with olive-kernels or wood, it is [considered] like an oven.

§ 3. An egg must not be put at the side of a hot kettle [on the Sabbath], that it become settled [done], nor must it be wrapped in

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[8] Lev. xii. 2. [9] Num. xv. 17.

[10] If three stars be not distinctly visible, or if the sky is darkened by clouds.

[1] A hearth [range or stove] divided into two compartments: in the lower one fuel is put, and in the upper one there is room for two dishes.

hot cloths [with that intention], nor must it be put into hot sand, or road-[side] dust, that it [the egg] be roasted [by the heat of the sun.]

§ 4. It once happened that the inhabitants of Tiberias carried a pipe of cold water through an arm [streamlet] of their hot-well; but the sages explained to them that on the Sabbath, [this water] like any [other that had been] heated on the Sabbath-day, is prohibited, either for washing or drinking; and that on festivals [this water] like any [other that had been] heated on the festival, is prohibited for washing, but permitted for drinking. A מוליאר[2] that has been cleansed of coals [it is lawful to] drink out of [on the Sabbath]; an אנטיכי[3] even though it has been cleansed of coals [it is] not lawful [to drink out of].

§ 5. [Into the kettle of] hot water, which has been removed [from the fire], man must not pour [a small quantity of] cold water that it get warm, but he may pour cold water into a kettle or goblet of warm water, to make that tepid.[4] Into a pot or kettle which has been moved [from the fire] boiling, he must not put spice; but he may put [spice to the warm victuals] in a dish or on a plate. R. Jehudah saith, "Into all [kinds of vessels] he may put spice, except into [such food] things as contain vinegar or bran."

§ 6. It is not lawful to put a vessel underneath a lamp to catch the oil [that drops], but if it has been [so] put while yet day [before the Sabbath come in], it is permitted to let it remain; [but the oil caught therein] no use must be made of, as it is not [part] of what was prepared [for the consumption of the Sabbath]. A new lamp may be moved [from one place to another], but not an old one [that has already been used]. R. José saith, "All lamps may be moved, except such as are alight for the Sabbath." A vessel may be placed under a lamp to catch the sparks, but no water must be put therein, as that extinguishes.

CHAPTER IV.

§ 1. Wherein may hot vessels [saucepans] be deposited [to retain

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[2] A warming-pan with the receptacle for the coals at the side; the heat of such a pan is much less than that of an אנטיכי.

[3] A double warming pan, with the receptacle for coals between the two pans.

[4] All regulations throughout this Treatise refer to the Sabbath only, unless where expressly stated to do otherwise.

the heat]? And wherein may they not [be] deposit[ed]? They must not [be] deposit[ed] in olive-kernels, in dung, in salt, in lime, or in sand (whether wet or dry), nor yet in straw, nor in grape-husks, nor in woolflocks, nor in herbs, while these are wet; but it is permitted to deposit in them should they be dry. It is permitted to deposit [the vessels or saucepans] under garments or under fruits [any kind of grain, &c.], under pigeon-feathers, or shavings, or under fine flaxen tow; R. Jehudah prohibits fine, but permits coarse [flaxen tow].

§ 2. They may [be] deposit[ed, wrapped] in skins, and removed [taken out of them again: likewise] in shorn-wool, but must not be removed [taken out] therefrom. How then is man to do? He takes off the lid [of the vessel or saucepan] and the wool falls off. R. Eleazar ben Azariah saith, "He inclines the vessel to one side, and takes out [what he requires], lest [were he to remove it] he cannot put it back again."[1] But the sages hold [that it is permitted to] take [the vessel] out, and [to] put [it] back again. If man has not covered up [his vessel or pot] while yet day [before the Sabbath comes in], he must not cover it after dusk; if he have covered it, and it is become uncovered, he is permitted to cover it again. He may fill a pitcher, and place it under a pillow or bolster [to take the chill off.]

CHAPTER V.

§ 1. Wherewith may [a man let] an animal go out?[1] and wherewith may [he] not [let] it go out? The camel [he] may [let] go out with its halter, the she camel with a nose-ring; the Lybian ass with bridle and bit; the horse with its collar; all [animals] that wear a collar may go out therewith, and be led thereby; [in case it, the collar, becomes unclean] it must be rinsed, and dipped in its place [without taking it off.]

§ 2. The ass goes out with its rug [while it is tied on him]. He-goats may go out with a leather bandage round their privates; sheep with their tails fastened up or down, and with wrapper;[2] she-goats

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[1] As the tow or wool falling together, would fill up the cavity made by the saucepan; and it is unlawful to make another.

[1] The point in question is to decide what is necessary for the safe guidance of the animal, and what is to be considered a burden.

[2] To preserve the fine wool.

with their udders tied up. R. José prohibits all these, excepting the sheep with wrapper. R. Jehudah saith, "She-goats may go out with their udders tied up, if [this be done] to dry [up the milk], but not if it be done to [preserve the] milk."

§ 3. Wherewith may [a man] not [let] animals go out? The camel must not go out with a rag tied to its tail,[3] nor with its legs strapped,[4] nor with its fore and hind-legs fastened together;[5] this [applies] to all domestic animals. A man must not fasten camels together and lead them, but he may hold the [different] ropes in his hand, only [taking care] that they do not get twisted.[6]

§ 4. An ass must not go out with its rug that had not been fastened on [before the Sabbath], nor with a bell, although it be muffled, nor with a wooden frame-work round its neck,[7] nor with a strap to its legs. Hens must not go out with cords[8] tied on them, nor with straps to their feet. Rams must not go out with go-carts to their tails;[9] nor sheep with sneezing-wood;[10] nor calves with a reed-yoke;[11] nor a cow with the skin of a hedgehog tied to her udders,[12] nor with a strap between her horns. The cow of R. Eleazar ben Azariah went out [on the Sabbath] with a strap between her horns, which was against the consent of the sages.

CHAPTER VI.

§ 1. Wherewith [on her person] may a woman go out? and wherewith may she not go out?[1] A woman must not go out with linen or woollen laces; nor with the straps on her head, because

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[3] As a mark to distinguish them by.

[4] Lest they rub their legs together and wound them.

[5] To prevent their running away. [6] As perhaps they may be kilaim.

[7] If the beast has a sore upon its neck, a frame of wood is made around it to prevent its rubbing the sore with its head.

[8] As marks whereby to distinguish them.

[9] Their tails are so fat that they are supported on small go-carts.

[10] חנונית, according to some, it is *veratrum* [white hellebore], which being put up the nostrils of a sheep causes it to sneeze, and so to shake off the vermin; according to others, it is an ointment applied to the newly-shorn sheep, to protect them against the cold.

[11] A light yoke, put on calves to break them in to a heavy one.

[12] To prevent weasels or reptiles from sucking them

[1] The question is, to decide what constitutes ornaments, and, as such, part of her attire, and what is burden.

she cannot bathe with them on, but must first unfasten them: nor with a frontlet and pendants thereto,[2] unless sewn to her cap; nor with the lining of the frontlet, into the public reshuth;[3] nor with a golden [ornament in the shape of a] town; nor with a tight gold chain; nor with nose-rings; nor with finger-rings, on which there is no seal; nor with a needle without an eye: but if she has gone out with either of these, she is not guilty [to bring] a sin-offering.

§ 2. A man is not to go out with iron-bound sandals,[4] nor with one [iron-bound shoe], unless he has a sore in [the other] foot; nor yet with Tephilin;[5] nor yet with an amulet, unless it be by a distinguished sage; nor with cuirass, helmet, or armour for the legs: but if he has gone out [with either of these] he is not guilty [to bring] a sin-offering.

§ 3. A woman must not go out with a needle that has an eye; nor with a finger-ring that has a seal on it; nor with a כוליאר;[6] nor with a smelling-bottle, or balm-flask: if she has gone out [with either of these] on her person, she is guilty, [and bound to bring] a sin-offering. Such is the dictum of R. Meir; but the sages absolve her [therefrom, as far as regards going out] with a smelling-bottle or balm-flask.

§ 4. Man must not go out with a sword, nor with a bow, nor with a triangular shield, nor with a round one, nor with a spear; if he has gone out [with either of these] he is guilty, [and bound to bring] a sin-offering. R. Eleazar saith, "They are ornaments [becoming] to him:" but the sages hold, "they are nothing else but a stigma [unbecoming], for it is said, 'They shall beat their swords into ploughshares, and their spears unto pruning-books, nation shall not lift up sword against nation, neither shall they learn war any more.'"[7]

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[2] In the East, women wear a thin gold plate on their foreheads, with pendants fastened thereto.

[3] According to some, this restriction applies to the lining only; according to others, to all the articles.

[4] This prohibition was occasioned by a melancholy accident during the persecution by Hadrian, when some Jews assembled in the synagogue on the Sabbath in defiance of the imperial edict, were disturbed by a sudden noise, and fearing the Romans were upon them, preferred falling by their own hands, and used their iron-bound sandals as the instruments of death.

[5] Even according to the opinion of those who maintain that tephilin must be used on the Sabbath.

[6] A diadem, or serpentine kind of head-dress, not generally worn by women, and therefore considered a burden.

[7] Isa. ii. 4; Mic. iv. 3.

Knee-buckles are clean, and a man may go out with them on the Sabbath; stride-chains[8] are liable to become unclean, and a man must not go out with them on the Sabbath.

§ 5. A woman may go out with plaits of hair, whether of her own hair or of another woman, or of an animal; with frontlet and pendants, if they are sewn fast to the cap; with the lining of a frontlet, and with false-ringlets [curls], into the courtyard; with soft wool in her ears, or soft wool in her shoe, or soft wool she has prepared for her menstruation; with a [grain of] pepper or [of] salt, or with whatever else she [is accustomed to] put into her mouth, provided she does not put it [into her mouth] especially on the Sabbath; and if she drop it [out of her mouth on the ground] she must not put it back [into her mouth] again; a false tooth, or a gilt tooth, Rabbi permits [the going out with]; but the sages prohibit [it].

§ 6. Women may go out with a coin fastened on a swelling in their feet; little girls may go out with laces on, and even with wires in their ears; Arabian women may go out in their large veils, and Median women in their mantillas: so [indeed] may any one; but the sages adduce their instances from existing [and known objects].

§ 7. A woman may fold up a stone, or a nut, or a coin, in her mantilla, provided she does it not especially on the Sabbath-day.

§ 8. The cripple may go out with his wooden leg: such is the dictum of R. Meir; but R. José prohibits it. If the wooden leg has a hollow receptacle for rags, it is [liable to become] unclean; leather crutches [of a cripple who is lame of both ankles], are [liable to become] unclean from pressure; but he may go out with them on the Sabbath, and [also] enter into the outer court [of the temple] with them. The chair and crutches [of one who is paralytic] are [liable to become] unclean from pressure, he must not go out with them on the Sabbath, and he must not enter the outer court [of the Temple] with them: אנקטמין[9] are clean, but he must not go out with them.

§ 9. Boys may go out with their bands, and princes with golden bells: so [indeed] may every one, but the sages adduce their instances from things existing [and known].

§ 10. It is permitted to go out with the egg of a grasshopper, or

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[8] Small chains used to contract the length of the stride or step. They were the invention of a particular family at Jerusalem, who suffered ill-health, and other inconveniencies from the length and rapidity of their steps.

[9] Wooden shoes or stilts, used to supply the loss of a limb.

the tooth of a fox, or the nail of one who has been hanged, as medical remedies: such is the dictum of R. Meir; but the sages hold [according to another version; such is the dictum of R. José, but R. Meir holds], "That even on the week-day this is prohibited, because of [its imitating] the ways of the Amorites."[10]

CHAPTER VII.

§ 1. One great rule they [the sages] laid down respecting the Sabbath. He who has [entirely] forgotten the principle of the Sabbath, and has done many kinds of work on many Sabbath-days, is bound to bring but one sin-offering. He who knows the principle of the Sabbath, but, [mistaking the day], has done many kinds of work on many Sabbath-days, is bound to bring a separate sin-offering for every Sabbath-day [which he has violated]. He who knows that it is Sabbath, and has [nevertheless] done many kinds of work on many Sabbath-days, is bound to bring a separate sin-offering for every principal occupation. He who has done divers work, all arising from the same principal occupation, is bound to bring but one sin-offering.

§ 2. Principal occupations there are forty less one: to sow, to plough, to mow, to gather into sheaves, to thrash, to winnow, to sift [corn], to grind, to sieve, to knead, to bake, to shear wool, to wash wool, to card, to dye, to spin, to warp, to shoot two threads, to weave two threads, to cut and tie two threads, to tie, to untie, to sew two stitches, to tear thread with intent to sew two stitches, to catch a stag [game], to slaughter it, to skin, to salt [cure] a hide, to singe a hide, to tan, to cut up a skin, to write two letters, to erase with intent to write two letters, to build, to demolish, to extinguish fire, to kindle fire, to hammer, to carry [or convey] from one reshuth[1] into another. Thus these principal occupations are forty less one.

§ 3. Another rule they [the sages] laid down. Whatever is fit [and proper] to be preserved, and in a quantity, such as is usually preserved, whosoever carries it out on a Sabbath is bound to bring a sin-offering. But whatever is not fit [and proper] to be preserved, and [is] in such quantity as is not usually preserved, if it be carried out on the Sabbath, he only is bound to bring a sin-offering [for carrying it out] who [usually] preserves it.

§ 4. Whoever carries out [chopped] straw equal to a cow's mouth-

[10] And, as such, being a reprehensible superstition, prohibited; *vide* Lev. xviii. 3.

[1] Vide Introduction.

ful; stalks equal to a camel's mouthful; stubble equal to a lamb's mouthful; herbs equal to a kid's mouthful, if fresh, equal to [the size of] a dried fig; leek or onion leaves if dry equal to a kid's mouthful. But these are not to be computed together, as the legal quantities are not equal [for all]. Whoever carries out [any article of] food equal to [the size of] a dried fig is guilty. And victuals may be computed together, as the legal quantity is the same for all; excepting peels, [shells], kernels, and stalks; [likewise] bran, fine or coarse. R. José saith, "Excepting, also, the husks of lentils, which have been boiled with them."

CHAPTER VIII.

§ 1. Whoever carries out wine sufficient to mix a goblet [of wine],[1] [such as is used at grace after meat], milk equal to a mouthful, honey sufficient to spread upon a sore, oil sufficient to anoint a small limb [joint], water sufficient to form a colyrium [wash for one eye], or of any other kind of beverage, quarter of a lug, and also of whatever can be poured out [liquids], quarter of a lug. R. Simeon saith, "For all [the articles here enumerated] the legal quantity is one quarter lug; and the [various] quantities here specified are only for those who conserve [keep the articles].

§ 2. Whoever carries out rope sufficient to make a handle for a box, [basket], or reed sufficient to make a hook for [whereon to hang] a fine, or a coarse sieve; R. Jehudah saith, "Sufficient to take measure for a child's shoe, paper sufficient to write thereon a toll-bill[2], and, [lastly, whoever carries out] a toll-bill of blotted paper, sufficient to wrap a small balm flask therein, is guilty."

§ 3. Vellum sufficient for an amulet, [double wove parchment sufficient to write a mezoozah thereon], single wove parchment sufficient to write thereon the smallest section [parashah] of the Tephilin, which is שמע ישראל, ink sufficient to write two letters, paint sufficient to dye one eye.[3]

§ 4. Bird-lime sufficient to put on the top of the lime twig; pitch, or sulphur, sufficient to fill up a tube of quicksilver; wax sufficient to stop up a small leak [in a wine cask]; loam sufficient to make an

[1] The goblet holds one quarter lug. The proportion in mixing is three parts water to one part wine. Consequently, the quantity here meant, is, one-sixteenth of a lug.

[2] The toll-bill contained two large sized letters.

[3] In the East it is customary for women to dye their eye-lashes, and paint their eye-lids, with paint prepared out of a root called hennah.

orifice [for a bellows], or the crucible of a gold refiner. R. Jehudah saith, "sufficient to make a stand [for such a crucible], lime sufficient to cover the little finger of a maiden." R. Jehudah saith, "sufficient to cover one of her temples." R. Nehemiah saith, "sufficient to anoint one of her temples [withal]."[4]

§ 5. Red loam sufficient to seal a bale of goods. Such is the dictum of R. Akivah; but the sages hold, "sufficient to seal a letter therewith." Dung, or fine sand, sufficient to manure a cabbage-stalk. Such is the dictum of R. Akivah; but the sages hold, "sufficient to manure a leek therewith." Coarse sand sufficient to fill a trowel, reed sufficient to make a writing-pen, and should it be thick or split, sufficient to boil the lightest of eggs[5], [which], mixed with oil, [lies] in a hot shell.

§ 6. Bone sufficient to make a spoon. R. Jehudah saith, "sufficient to make [a fitting] for a key." Glass sufficient to scrape the top of a weaver's shuttle therewith, a lump of mould, or a stone, large enough to throw at a bird. R. Eleazar ben Jacob saith, "large enough to throw at a beast."

§ 7. Potsherds large enough to put between deals to poise them. Such is the dictum of R. Jehudah; but R. Meir saith, "large enough to shovel up ignited fuel therewith." R. José saith, "large enough to receive [hold] quarter [of a lug]." R. Meir saith, "Although there is not [any absolute] proof in support [of my] assertion, there is an indication [of my] assertion; for it is said, 'There shall not be found in the bursting of it a sherd to take fire from the hearth.'"[6] But R. José replied, "[Can you] thence [adduce] a proof? [Does not the sentence conclude with the words], 'or to take water withal out of the pit?'"[7]

CHAPTER IX.

§ 1. R. Akivah saith, "Whence is it [to be inferred] that carrying an idol maketh unclean, even as menstruation doth? From the text, 'Thou shalt cast them away as a menstruous cloth: thou shalt say unto it [the idol], get thee hence.'[1] Even as the carrying of a menstruous cloth defileth, so does likewise the carrying of an idol."

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[4] It is an eastern custom to apply an ointment made of lime to the forehead, as a cosmetic to smoothen the skin.

[5] The egg of a domestic fowl is considered as the lightest and quickest boiled of eggs.

[6] Isa. xxx. 14.

[7] Isa. xxx. 14.

[1] Isa. xxx. 22.

§ 2. Whence is it [to be inferred] that a ship is clean? From the text, "The way of a ship in the heart [midst] of the sea."[2] Whence is it [to be inferred] that in a garden-bed, six hands square, five different kinds of seed may be sown; [*i. e.*] four [kinds] in the four corners of the garden-bed, and the fifth in the middle?[3] From the text, "For as the earth bringeth forth her bud, and the garden causeth זְרוּעֶיהָ, her seeds, to spring forth."[4] The text does not say, זַרְעָהּ [her seed, in the singular, as if of one kind only], but זְרוּעֶיהָ, [her seeds of various kinds].

§ 3. Whence is it [to be inferred] that a woman who sheds semen on the third day [after coition] is unclean? From the text, "And be ye ready against the third day."[5] Whence is it [to be inferred] that a circumcised infant is to be bathed [washed] on the third day [after circumcision], even though that falls on the Sabbath? From the text, "And it came to pass on the third day, when they were sore,"[6] Whence is it [to be inferred] that a red string is to be tied to the head of the scape-goat?[7] From the text, "Though your sins be as scarlet, they shall become white as snow."[8]

§ 4. Whence is it [to be inferred] that anointing is [as unlawful] as drinking on the day of atonement? Although there is no [absolute proof] for this assertion, there is an indication thereof in the text, "Let it come into his bowels like water, and like oil into his bones."[9]

§ 5. He [is likewise guilty] who carries out wood sufficient to boil a light egg, spices sufficient to season a light egg; and [different kinds of spice are to be] computed together. Nut-shells, pomegranate peels, isatis [woad], and madder, sufficient to dye a small cap-cloth; urine, alum, בורית, and קמוליא and אשלג,[10] sufficient to wash a small cap-cloth. R. Jehudah saith, "sufficient to pass over a blood-stain, [by way of experiment to see if it can be taken out]."

§ 6. Pimento the smallest quantity, extract of pitch the smallest quantity; all kinds of spice [perfumes] and of metals [ores] the smallest quantity. Altar stones and altar dust,[11] fragments of rolls of

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[2] Prov. xxx. 19. [3] Vide Treatise Kilaim, chap. III. § 1.
[4] Isa. lxi. 11. [5] Exod. xix. 11. [6] Genes. xxxiv. 25.
[7] Lev. xvi. 8, 20—22. [8] Isa. i. 18. [9] Ps. cxix. 18.

[10] Commentators do not satisfactorily explain the meaning of these three words. Dr. Jost asserts, that בורית is alkaline salt; that אשלג, derived from שלג, snow, is a kind of frothy soap; and that קמוליא is the creta-cimolia, of which Pliny states (Hist. Nat. lib. v. 57), that it is used for washing.

[11] From the Temple at Jerusalem.

the law, and fragments of their wrappers [gnawed to pieces by moths] the smallest quantity; because these things are preserved to be secreted. R. Jehudah saith, also, "whoever carries out the smallest quantity of what has been used for idol-worship; for it is said, 'And there shall cleave nought of the accursed thing to thine hand.'"[12]

If a man carry out the box of a dealer in spices [apothecary], although there be various kinds [of spice] therein, he is [only] bound to bring one sin-offering. Garden seeds, [rather] less than the size of a dried fig. R. Jehudah ben Bethera saith, "Five [things there are of which, should a man carry the smallest quantity, he is guilty], cucumber seeds two [grains], pumpkin seeds two [grains], Egyptian bean-seed [two grains], a clean[13] live grasshopper any portion [however small], [if it be] dead the size of a dried fig. A vineyard bird[14] any [the smallest] portion [be it] dead or alive." R. Jehudah saith, "He likewise [is guilty] who carries out any [the smallest] portion of an unclean live grasshopper, because these are preserved for children to play with."

CHAPTER X.

§ 1. Whoever preserves a thing, either as seed or for a sample, or as a medicine, and carries out any quantity thereof on the Sabbath, is guilty. All [other] persons are only guilty if they carry out the [prescribed] quantity; if he who preserves the article carries it back again, he also is only guilty [of a second offence] if there be the prescribed quantity.

§ 2. He who, carrying out victuals, puts them on the threshold[1] [of his house], whether he himself afterwards carries them out or any other person carries them out, both are [alike] absolved; because neither completed the work at once [off-hand]. If he put a basket full of fruit on the outer threshold, although the larger portion of the fruit be in the street [of the threshold], he is absolved, so long as the whole of the basket is not carried out [at once].

§ 3. Whoever carries out, either with his right hand or with his left, in his lap, or on his shoulder, is guilty; [the last] being the manner in which the sons of Kohath carried their load: but if he carries

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[12] Deut. xiii. 17.

[13] Such as may be eaten. (Vide Lev. xi. 22).

[14] It is nowhere explained what particular bird is meant by this designation; probably it is grasshopper. (Vide Choolin, fo. 65).

[1] The threshold is considered as carmelith. (Vide Introduction to this Treatise.)

on the back of his hand, or [pushes by] his foot, or [carries in] his mouth, or [shoves with] his elbow, or [carries in] his ear, or [tied to] his hair, or in the purse of his girdle, with the opening downwards, or between his girdle and his shirt, or in the skirt of his shirt, or in his shoe, or in his sandal, he is absolved, because he carries not in the usual way.

§ 4. If a person intends to carry out [something] before him, and it gets behind him, he is absolved; [if he intended to carry it] behind him, and it gets before him, he is guilty. They [the sages] did indeed decide, that a woman who carries out something in her small girdle is guilty, whether [it be carried] before her or behind her; for it is liable to shift. R. Jehudah saith, "letter-carriers likewise."[2]

§ 5. If a man carries a [large] loaf into the public reshuth, he is guilty; if two carry it they are absolved:[3] if one was not able to carry it, and [therefore] the two carried it out, they are guilty. If a person carries out victuals, less than the prescribed quantity, in a vessel, he is absolved, even for [carrying] the vessel, as that is an accessary to the victuals. [If he carries out] a living person on a couch, he is absolved, even for [carrying] the couch, as that is an accessary to the person [on it]. [If he carry out] a corpse on a couch or bier, he is guilty. Likewise [if he carry] the size of an olive [appertaining to a human] corpse, or the size of an olive of carrion, or the size of a lentil of a reptile, he is guilty. R. Simeon absolves him.

§ 6. He who pares his nails, [either pulling them off] with his nails, or [biting them off] with his teeth; or who pulls the hair out of his head, or off his lip, or out of his beard; likewise a woman who plaits her hair, or dyes her eye-brows, or who parts the hair on her forehead; R. Eleazar pronounces [them all] guilty. The sages prohibit all these, on the score of [their violating] the Sabbath rest. He who plucks [leaf, flower, or blossom] out of a perforated flower-pot, is guilty: [but if the flower-pot be] not perforated, he is absolved. R. Simeon absolves him in either case.

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[2] Royal runners, who carried their dispatches in wooden cases, suspended on their breasts.

[3] Because neither of them does a complete work.

CHAPTER XI.

§ 1. Whoever throws [something] from a private reshuth into the public reshuth, or from the public reshuth into a private reshuth, is guilty; from one private reshuth into another private reshuth, [there being] a public reshuth between the two, R. Akivah pronounces him guilty; but the sages absolve him.

§ 2. How is this to be understood? [Suppose] two balconies project [from the private reshuth of the houses to which they respectively belong] into the public reshuth, and face each other, whoever reaches [hands] or throws any thing out of one into the other, is absolved. If both [balconies] be in one row, he who reaches [hands something out of one into the other] is guilty, but he who throws [any thing from one into the other] is absolved; for such [reaching or handing] was [part of] the work of the Levites [in their ministry at the tabernacle, viz.] two waggons stood next to each other in the public reshuth, and the boards [of the tabernacle] they handed from one waggon into the other, but they did not throw them. If a heap of mould [dug out] of a pit, or a rock [stone], be ten hands high and four wide, whoever takes [any thing] away from either, or puts [any thing] thereon, is guilty; [should the size thereof be] less than this, [ten hands by four], he is absolved.

§ 3. If, from [a distance of] four amoth, a man throws [something] against the wall [should it hit] higher than ten hands [from the ground], it is as if he threw [it] in the air; [should it hit] lower than ten hands [from the ground], it is as if he threw [it] on the ground. He who throws [any thing] on the ground, [to the distance of] four amoth, is guilty. If he threw [it] within the four amoth, but it rolled beyond the four amoth, he is absolved. [If he threw it] beyond the four amoth, and [it] rolled back again within them, he is guilty.

§ 4. He who throws [something] into the sea, [to the distance of] four amoth, is absolved. If a pool of water be traversed by a public reshuth [thoroughfare], whoever throws [any thing] into it [to the distance of] four amoth, is guilty. What [depth] constitutes a pool? Less than ten hands [deep]. Any pool which is [occasionally] traversed as a public reshuth [thoroughfare], whoever throws [any thing] into it [to the distance of] four amoth, is guilty.

§ 5. He who throws from the sea to the shore, or from the shore to the sea; from the sea to the ship, or from the ship to the sea, or

from one ship into another, is absolved. If ships are fastened together, [things] may be moved [conveyed] from one into the other; if they are not fastened together, even though they touch, [things] must not be moved [conveyed] from one into the other.

§ 6. If a man throws [something] and, after it has left his hand, he remembers [it is Sabbath], should that [which he has thrown] be caught up by any other [person], or snapped up by a dog, or should it become ignited [and burnt in the air], he [who has thrown it] is absolved. Has he thrown [something] with intent to wound either man or beast, and remembers [that it is Sabbath] before the wound is inflicted, [as long as the object is not hit], he is absolved. The rule is, all those who [when guilty] are bound to bring a sin offering, do not become guilty, unless [both] the beginning and end, [result of their offence] be unwittingly [inadvertently]. If the beginning be unwittingly and the end wittingly [premeditated], or if the beginning be wittingly [premeditated], and the end unwittingly [accidental] [in either case] they [the offenders] are absolved; unless [as has already been stated], both beginning and end [result of the offence] be unwittingly [inadvertently] committed.

CHAPTER XII.

§ 1. He who builds, how much must he build to become guilty? Whoever builds at all [be it ever so little], whoever chops a stone, strikes with a hammer, or uses a plane, or bores a hole; [whosoever] at all [does either of these] is guilty. The rule is, whosoever does any work, which is lasting and durable,[1] on the Sabbath, is guilty. R. Simeon ben Gamaliel saith, "He [likewise is guilty] who strikes with a hammer on an anvil, because it appears as if he prepared [or finished off] work.

§ 2. Whoever ploughs at all, or weeds, or clears [away parasite branches; whoever] at all [does either of these], is guilty. Whoever gathers wood, if to [clear], improve [the] ground, any quantity, [however small]; if to burn, sufficient to boil a light egg. Whoever gathers herbs, if to [clear], improve the ground, any quantity, [however small]; if for [feeding] a beast, sufficient for a kid's mouthful.

§ 3. Whoever writes two letters, whether with his right or with

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[1] Such work as is done on the Sabbath remains, either *per se*, or as an integral portion of something else, *in statu quo*, after the Sabbath.

his left hand, whether the one letter [twice], or two [different] letters, or with different inks, in any language [or character], is guilty. R. José saith, "The writing of two letters was prohibited, solely because [they may serve] to mark [withal]; for the boards of the tabernacle were thus lettered, to know how to match them." Rabbi saith, "We find short names, [which are abbreviations] of larger ones; as שם [Sam or Sim], from Samuel or Simeon; נח [Noah], from Nahor; דן [Dan], from Daniel; גד [Gad], from Gadiel.

§ 4. Whoever, on one occasion, unwittingly [off-hand at once] writes two letters, is guilty; whether he write with ink, or paint, or ruddle, or gum, or vitriol, or any [other] substance that leaves a [lasting] mark. [Moreover, whoever writes] on the two [angles forming] corner walls, or on two tablets [leaves] of an account-book,[3] so that the two correspond,[4] is guilty. Whoever writes on his [own] flesh, is guilty. Whoever scratches [alphabetical characters] on his own flesh, R Eleazar [pronounces] bound to bring a sin-offering; but R. Joshua absolves him.

§ 5. Whoever writes with [any kind of dark] beverage [liquid], or with the juice of fruit, or with dust from the road, or with writing sand, or with any [other] substance which is not durable, is absolved; [whoever writes] with the back of his hand, or his foot, or his mouth, or his elbow, or if he writes [adds] one letter to writing [which is already written], or writes over writing; [moreover], if he intended to write [the letter] ח, but actually wrote two ו, [or wrote] one [letter] on the ground, and one on the boards [partition], or wrote on two walls of the house, or on two leaves of an account-book, which do not correspond [cannot be joined], so that the writing may be read [as a whole]; [whoever does either of these] is absolved. Whoever writes one letter of notaricon[5] is, by R. Joshua ben Bethera, pronounced guilty; but the sages absolve him.

§ 6. Whoever unwittingly writes two letters on two [different] occasions, [as], one in the morning, and one towards evening, is, by Rabbon Gamaliel, pronounced guilty; but the sages absolve him.

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[3] פנקס, derived from the Greek πινακος, *pinacos*, and used by the Mishna to designate books of account, such as are used by commercial men.

[4] I. e. So that the two can be joined, and the letters matched, to be read as forming one whole.

[5] A kind of short-hand used by law-writers [notaries, from whom it derived its name], and formed by the initial letters of the different words composing a sentence.

CHAPTER XIII.

§ 1. R. Eleazar saith, "Whoever weaves three threads at the [first] beginning [of a weft], or one thread while the weft is in progress, is guilty;" but the sages decide, "that whether at the first beginning or end [of a weft] the prescribed quantity is two threads."

§ 2. Whoever ties two threads, whether in the warp or in the shoot, or in a fine or coarse sieve, or in a basket, is guilty. [Moreover], he who sews two stitches, or tears, with intent to sew two stitches, [is guilty].

§ 3. Whoever tears something in a rage, or at a death, and all who in a passion spoil [or destroy], are absolved. Whoever spoils [breaks] in order to repair the prescribed quantity, [which decides his being guilty], is [guilty] according to the [extent of the necessary] repairs.

§ 4. The prescribed quantity of wool, washed, carded, dyed, or spun, is that of a double sit;[1] and, in the weaving of two threads, the prescribed quantity is that of one sit in width.

§ 5. R. Jehudah saith, "Whoever hunts a bird into a cage, or a deer into a house, is guilty." The sages decide, "a bird into a cage, a deer into a house, a court, or an inclosure for animals."[2] R. Simeon ben Gamaliel saith, "Not all inclosures are alike." The rule is, when the capture is incomplete, he is absolved; but when the capture is not incomplete he is guilty. The meaning is, whatsoever must be chased a second time renders guilty; whatsoever is completely in a man's power does not render guilty.

§ 6. If a stag enter a house, and one man shuts him in, he is guilty; if two shut him in, they are absolved; if one man is not able to shut him in, and [therefore] two shut him in, they are guilty.[3] R. Simeon absolves them.

§ 7. If one man places himself in the door [entry, to prevent the deer from getting out again], but does not [completely] fill it, and a second person places [himself next to him], and does fill it, the second is guilty. If the first places himself in the door [entry], and fills it, and a second person comes and places himself at his side,

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[1] The size of a full span: between the first and middle finger is a sit, the space between the thumb and middle finger is a double sit.

[2] ביבּרין, from the Latin *vivarium*; a kind of den or inclosure, in which wild animals were kept.

[3] Vide our note [2], p. 27.

although the first should afterwards get up and go away [leaving the second in the entry], the first is guilty, and the second is absolved. For what is this like? Like as if he had locked his house to secure his property, and a stag is found secured within it.

CHAPTER XIV.

§ 1. The eight kinds of vermin mentioned in the law[1]—whoever catches or wounds one of them, is guilty. As to all other kinds of reptiles, or worms, whoever wounds [bruises] them is absolved; whoever catches them, if for use, is guilty; if not for use, is absolved. Whoever catches animals, or birds, that are [already] in his possession, is absolved; whoever wounds [bruises] them is guilty.

§ 2. Man must not make [prepare] brine on the Sabbath; but he may make [mix] salt and water wherein to dip his bread, and to put into his food, to season it. R. José observed, "And is not this [mixture] brine, whether it be more or less salted? The [only mixture of] salt and water which is permitted [on the Sabbath], is that in which oil has been previously put, either to the salt or to the water."

§ 3. It is unlawful to eat Greek hyssop on the Sabbath, because it is not food [fit] for healthy [people]; but man may eat wild-rosemary, and drink אבוב רועה;[2] man may eat of any [kind of] food as medicine, and drink any kind of beverage, except water of דקלים,[3] and כוס עקרים,[4] as these are [only remedies] for the jaundice; but a man may drink the *water of Dekalim* for thirst, and may anoint himself with the oil of *Ikkarim*, but not as a remedy.

§ 4. He who has the toothache must not rinse his teeth with vinegar, but he may wash them as usual [dip something in vinegar and rub them], and if he does get cured, he does get cured. He who has pains in his loins, must not rub them with wine or vinegar; he may [however] anoint them with [any kind of] oil, except rose

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[1] Lev. xi. 29.

[2] "Bloom of the herds;" it is said to be a plant which grows on a single stem, and is an antidote against all pernicious liquids.

[3] "Water of trees;" the Talmud explains this designation, by relating that in Palestine there is a spring between two trees, the waters of which have the effect that the first goblet promotes digestion, the second acts as a laxative, and the third as an emetic.

[4] A mucilage, or ointment, composed of certain pulverised herbs and gum, mixed together in wine.

oil. Princes may anoint [dress] their wounds with rose oil, as they are in the habit of so anointing [themselves] on week-days. R. Simeon saith, "All Israelites are [to be considered as] princes [in this respect]."

CHAPTER XV.

§ 1. These [are the kind of] knots which render [a man] guilty: the camel-drivers' knot, and the [sailors'] boatmen's knot;[1] and as he becomes guilty by tying [splicing] them, so does he likewise become guilty by untying them. R. Meir saith, "A knot which he can untie with one hand only, he does not become guilty for [untying]."

§ 2. There are other knots, the tying or untying of which does not render guilty, as the camel-drivers' and [sailors'] boatmen's knots [do]: a woman may tie the slit in her chemise, and her cap-ribbons, and her stay-laces [girdle], and her shoe-strings, and her sandal-laces; [also] skins of oil, and of wine, and pots of meat. R. Eleazar ben Jacob saith, "They may tie a rope before a beast, to prevent its going out." A pail may be tied [to a well] by a girdle, but not by a rope. R. Jehudah laid down the rule, "Any knot which is not intended to be lasting [tied once for good and all] does not cause [any one] to become guilty.

§ 3. Clothes may be folded even four or five times; on the evening of the Sabbath, the beds may be made for [use on] the Sabbath; but they must not be made on the Sabbath, for [to be used] after the Sabbath is out. R. Ishmael saith, "The clothes may be folded, and the beds made on the day of atonement, for [use on] the Sabbath."[2] And the fat of the Sabbath-sacrifices may be offered on the day of atonement: [another version adds, "but not that of the day of atonement on the Sabbath."] R. Akivah saith, "That of the Sabbath must not be offered on the day of atonement, nor that of the day of atonement on the Sabbath."

CHAPTER XVI.

§ 1. All sacred writings are to be saved out of a conflagration,

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[1] The first is the knot which fastens the ring to the camel's snout; the second to fasten the peak of a boat: both are intended to be durable.

[2] If the Sabbath come in as the day of atonement goes out.

whether they be read in [on the Sabbath] or not,[1] and in whatever language they be written, they must be taken care of. Why are they not read in? In order not to neglect [miss] the discourse in the Medrash. The cover of a book is to be saved along with the book, and the cover [case] of the Tephilin, even though there be money in it. Whither may they be carried for safety? Into any place that is completely inclosed. Ben Bethera saith, "Even if the place be not completely inclosed [but is partly open on one side, they may carry it in and save it out of a conflagration]."

§ 2. Food for [the] three [Sabbath] meals is to be saved; for man, that which is fit for human food; and for beasts, that which is fit for animal [food]. How is this to be understood? If the fire broke out on the Sabbath-evening, food for three meals is to be saved; if in the morning, food for two meals is to be saved; and if at noon, food for one meal is to be saved. R. José saith, "At all times food for three meals is to be saved."

§ 3. A basket filled with loaves may be saved, even though it contain [food sufficient for] one hundred meals; also a [large] fig-cake, and a cask of wine. It is lawful to call to others, "Come and save for yourselves [whatever you can];" if those who save are knowing,[2] they will settle accounts with the owner after the Sabbath.[3] Whither may they [the articles saved] be carried for safety? Into any court that is combined by Erub;[4] Ben Bethera saith, "Even into one that is not so combined."

§. 4 Thither he may carry out all vessels required [for his meals that day]. He dresses [himself] in as many [garments] as he can put on, and girds round him as much as he can gird. R. José saith, "[He must not put on more than] eighteen [pieces of ordinary] wearing-apparel; and he may go back and again dress in, and put on [as much as he can] and carry it out, and call to others, 'Come, and save with me' [help me to save]."

§ 5. R. Simeon ben Nonos saith, "They may spread a goat-skin

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[1] All the books of the Bible [except the Pentateuch] are here designated: those read on the Sabbath are the Prophets; those not read, the Kethubim (Hagiographa).

[2] Alive to their own interests.

[3] They sell him at a low rate the articles of food which he abandoned, and they saved; thus they obtain a compensation, which they could not claim for assistance rendered on the Sabbath; and his loss is lessened.

[4] Vide Treatise Erubin.

over a chest, or a box, or a cupboard, which has caught fire, as it will only get singed. It is also lawful to erect a partition with any kind of vessels, be they full [of water] or empty, to prevent the fire from spreading. R. José forbids this being done with new crockery-ware filled with water, as this [kind of vessels] cannot stand the heat, but would burst, and extinguish the fire.

§ 6. If a heathen comes to put out the conflagration, he is not to be told, "extinguish," or "do not extinguish," because it is not obligatory on them [Israelites], to make him observe the Sabbath-rest. But if a minor [an Israelitish child] wishes to extinguish [the conflagration], they must not allow him [so to do], as it is obligatory on them [Israelites] to make him observe the Sabbath-rest.

§ 7. A dish may be put over the light, to prevent the beam [of the roof] from catching fire; also [a dish may be put] over the ordure [of poultry], [on account of] children; and over a scorpion, that it may not bite. R. Jehudah said, "It happened that such a case was brought before R. Jochanan ben Sachai, at Arob, when he remarked, 'I doubt whether I ought not to have inflicted a sin-offering' [on the accused]."[5]

§ 8. If a heathen has lighted a candle, an Israelite may use the light; but if [the heathen has lighted it] on purpose for the Israelite, it is prohibited [to use it]; if a heathen has drawn water to give to his cattle to drink, the Israelite may give his cattle to drink after him; but if [the heathen has drawn the water] on purpose for the Israelite, it is prohibited [to use it]. If a heathen has made a step to descend [from a ship], an Israelite may descend [thereon] after him, but if [the heathen has made it on purpose] for the Israelite, it is prohibited to use it. It once happened that Rabbon Gamaliel and the elders arrived in a ship, and a heathen made a step by which he descended, and Rabbon Gamaliel and the elders descended after him.

CHAPTER XVII.

§ 1. All [such] vessels [as may be] moved on the Sabbath, their doors [lids] may be moved with them, even though they have become

[5] Because he caught, on the Sabbath-day, a scorpion, that did not actually threaten him.

parted on the Sabbath; for they are not like house-doors, which are not [originally] prepared [to be moved].

§ 2. A man may take [use] a hammer to crack nuts, or a hatchet to chop fig-cake, or a handsaw to saw cheese, or a shovel to take up dry figs, or a fan or fork to give food thereon to a child, a spindle or a shuttle to pick up fruit, or a sewing-needle to pick a splinter out [of his skin], or a packing-needle to open [undo] the door.

§ 3. An olive-cane,[1] that has a knob at the top of it, is liable to contract uncleanness; but if [it has] none, it is not liable to contract uncleanness; in either case it may be moved on the Sabbath.

§ 4. R. Judah saith, "All vessels [utensils] may be moved except a large saw and a ploughshare; all vessels [utensils] may be moved, whether they are [wanted] for use [on the Sabbath], or not [wanted] for use." R. Nehemiah saith, "They are only to be moved if [actually wanted] for use."

§ 5. All [such] vessels as may be moved on the Sabbath, their fragments [should they be broke] may likewise be moved, provided they be fit to put to some use: [such as] the fragments of a kneading-trough, to cover the bunghole of a cask, or the fragments of a glass to cover a pitcher. R. Jehudah saith, "Provided they [the fragments] be fit to put to some use [analogous to] their [original] purpose: [such as] the fragments of a kneading-trough to hold pap [porridge], or the fragments of a glass to hold oil."

§ 6. If a stone be in a hollow pumpkin [gourd], should the stone not fall out when water is drawn, they may draw water therewith; if otherwise, they must not draw water therewith. Should a vine-branch be fastened to a pitcher [by way of a handle], water may be drawn therewith on the Sabbath.

§ 7. [Of a] window-blind, R. Eleazar saith, "If it be fastened, and hang down, it may be put before the window; if not, it must not be so used." But the sages hold, "That in either case, it may be put [before the window]."

§ 8. The lids of all such vessels as are fixed to the ground, may be moved on the Sabbath. R. José saith, "To what does this decision apply? To the lids of all such vessels [fixtures] as are sunk into the ground [as cisterns, &c]. What then [is the case] with respect to the lids of vessels fixed to the ground? Either kind may be moved on the Sabbath."

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[1] A hollow cane, used for the purpose of trying if the olives are sufficiently ripe for the press.

CHAPTER XVIII.

§ 1. Man may move even four or five kupoth[1] of straw or grain [to make room] for guests, or to enable disciples to obtain instruction in the law; but [he must] not [move] an entire store. [The following articles] may [likewise] be removed: clean heave-offering,[2] doubtful fruit,[3] first tithes, of which the heave-offering has been taken, second tithes, and consecrated things which have been redeemed, and dried broad-beans [as these last] are food for the [עניים] poor. [According to another version (עזיים) goats.] But it is not lawful to move טבל,[4] nor first-tithes of which the heave-offering has not been taken; nor second-tithes, nor consecrated things which have not been redeemed; nor yet arum,[5] nor mustard. R. Simeon ben Gamaliel permits arum to be moved, as it is food for [tame] ravens.

§ 2. Bundles of straw, bundles of stalks, and bundles of reeds, if intended as fodder for cattle, may be moved; if not, they must not be moved. A basket may be set on end for chickens to climb up and down on; a runaway hen may be chased back [home] again; calves and young asses may be walked [to and fro to take exercise] in the public reshuth; a woman may also walk her child. R. Jehudah saith, "When [may she do this]? If it [the child] lift up one [leg] as it sets the other down; but if it trails [its leg behind] it is prohibited [for the mother] to walk [lead] her child, [on the Sabbath]."

§ 3. A man must not deliver [of its young] an animal that calves on the festival; but he may [otherwise] support [assist] it. [If] a woman is to be delivered on the Sabbath, the midwife must be called in to her from one place to another. The Sabbath may be violated for her sake; the navel-string is to be tied; R. José saith, "it may also be cut." Whatever is necessary for [appertains to] circumcision, may be done on the Sabbath.

CHAPTER XIX.

§ 1. R. Eleazar saith, "If he [who is to circumcise the infant] has

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[1] A kupah is equal to three saah.

[2] Heave-offering of fruits (Num. xviii. 8—20.)

[3] Demai, fruit or grain, respecting which it is doubtful whether the legal dues and tithes have been acquitted thereof or not.

[4] Mixed grain, before it has been assorted and tithed. [5] Wake-robin.

not brought a knife before the Sabbath, he is to bring it openly [uncovered] on the Sabbath; but in times of danger [religious persecution], he covers the knife [wraps it up] in the presence of witnesses.[1] R. Eleazar further saith, "Wood may be cut [on the Sabbath] to be burnt into coal, to forge an iron instrument [knife, to circumcise withal;" but] R. Akivah laid down the rule, "Whatever work [necessary in aid of circumcision] it is possible to do on the Sabbath-eve, does not supersede [the due observance of] the Sabbath; but [whatever work] it is not possible to do on the Sabbath-eve, does supersede [the due observance of] the Sabbath.

§ 2. Whatever is requisite [to complete the ceremony] of circumcision, is to be done on the Sabbath: [viz.] they circumcise, uncover [the gland], suck [the blood], and put plaster and cummin [caraway] on the wound; if [the cummin has] not [been] crushed on the Sabbath-eve, he masticates it with his teeth, and puts it on; if he has not mixed oil and wine on the Sabbath-eve, he must put each on separately; he must not prepare a proper dressing [on the Sabbath], but he may tie a small linen rag on the wound; and if he has not provided it on the Sabbath-eve, he may wrap it round his finger, and bring it with him, even from another court.

§ 3. The infant may be bathed [washed], as well before the circumcision as after the circumcision; the water must be sprinkled on it with the hand, but not poured on it with a vessel. R. Eleazar ben Azariah saith, "The infant is to be bathed on the third day [after circumcision], though that fall on the Sabbath; for it is said, 'And it came to pass on the third day when they were sore.'"[2] [To circumcise] a טפס,[3] or a hermaphrodite, the Sabbath is not to be violated. R. Jehudah permits it in [the case of] a hermaphrodite.

§ 4. He who has two children to circumcise, one after the Sabbath, and one on the Sabbath, should he forget, and circumcise the one who is for after the Sabbath on the Sabbath, he is guilty. If he has one child to circumcise on the Sabbath-eve, and one on the Sabbath, should he forget, and circumcise the one for the

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[1] To attest that he carries nothing but that which it is lawful for him to carry out on the Sabbath.

[2] Gen. xxxiv. 25.

[3] "Doubtful;" a child which is supposed to have been born in the eighth month of pregnancy, and considered as not able to live, and therefore not to be circumcised on the Sabbath.

Sabbath-eve on the Sabbath, R. Eleazar pronounces him guilty, [and bound to bring] a sin-offering; but R. Joshua absolves him.

§ 5. An infant may be [legally] circumcised on the 8th, the 9th, the 10th, the 11th, and the 12th [day after its birth], but not sooner, nor yet later. How is this to be understood? In the ordinary way; on the 8th [day] if it be born near twilight, it is circumcised on the 9th [day]; if [it be born] near twilight on the Sabbath-eve, it is circumcised on the 10th [day]; if a festival succeeds the Sabbath, it is circumcised the 11th [day]; and [should the Sabbath be succeeded by] the two new-year's days, it is circumcised on the 12th [day]. Should the infant be ill, it must not be circumcised till it gets [quite] well again.[4]

§ 6. These are the excrescences [knobs] which impede the circumcision; flesh which covers the greater part of the gland: [such an one if a priest] must not eat of heave-offering. If [this arise because] a man becomes very fleshy, it must be remedied, for the sake of outward appearance. If he has circumcised, but not uncovered the gland, it is as if he had not circumcised at all.

CHAPTER XX.

§ 1. R. Eleazar saith, "A man may spread a wine-strainer [over a vessel] on the festival, and [when it is so spread] pour [wine] into it on the Sabbath; but the sages hold that they must not spread a wine-strainer [over a vessel] on the festival, nor pour into it on the Sabbath; but they may pour [wine] into a strainer on the festival.

§ 2. They may pour water on lees, in order to render them thinner; and also strain wine through a cloth or an Egyptian hamper; and pass an egg [that has been cracked] through a mustard-strainer. They may also make [mix] honey-wine on the Sabbath. R. Jehudah saith, "On the Sabbath [they may mix it] in a goblet; on the festival, in a basin; and on the middle-days, in a cask;" but R. Zadock saith, "At all times [a sufficient quantity may be mixed], according to [the number] of guests [to be provided for]."

§ 3. They must not soak laserpitium[1] in tepid water, but it may be put into vinegar; vetch must not be soaked or crushed, though it may be put into a sieve or a basket; straw for fodder must not be

[4] From which period the eight days are to be computed.

[1] Laserpitium [laserwort.]

passed through a winnow, nor must it be put on a high [exposed] place, that the chaff may fall [blow] off; but they may put it into a winnow, and then pour it into the crib.

§ 4. They may cleanse [the crib] for a stalled ox, and also push aside the superfluous provender, that it may not get soiled. Such is the dictum of R. Dosa; but the sages prohibit it. They may move the fodder from before one beast to put it before another on the Sabbath.

§ 5. Straw on the bed must not be shaken with the hand, though it may be moved with the whole body; but if it is intended as fodder for beasts, or if a pillow be on it, or a cloth, it may be shaken with the hand. A clothes press, if it belong to [private] householders, it is permitted [to open it, though it must not be used to press with,] but not if it belong to a laundress: [indeed] if it belong to a laundress it must not be touched at all; R. Jehudah saith, "If it [the clothes press] was partly opened on the Sabbath-eve, it may be altogether opened and pulled out;" [according to another version, "and the garments pulled out"].

CHAPTER XXI.

§ 1. A man may lift up his child with a stone in its hand; also, a hamper, wherein there is a stone; and unclean heave-offering may be moved with clean and with non-consecrated things. R. Jehudah saith, "They may also take out the heave-offering from מדמע,[1] in the proportion of one to the hundred.[2]

§ 2. [If] a stone [lie] on the bung-hole of a cask, a man may incline the cask to one side, so that the stone fall of. If it [the cask in question] is among other casks, he may raise it, and incline it on one side, so that the stone may fall off. If there be money [coins] on a bolster, the bolster may be turned, so that they may fall off. If there be any ordure on a pillow, man may wipe it off with a rag; if the cover [of the pillow] be of skin, water may be poured on it until the ordure is rinsed off.

§ 3. Beth Shammai hold, "That men may carry from the table bones and husks." Beth Hillel hold, "That the whole table-cloth is to be lifted up and shaken."[3] They may carry away from the table

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[1] Heave offering, which has got mixed among non-consecrated grain, which thereby becomes forbidden food for all but priests.

[2] Vide Treatise Terumoth.

[3] According to the Talmud, the opinions here assigned to the two schools are,

fragments [of food] less than the size of an olive, and also the husks of beans and of lentiles; for these are food for cattle. A sponge, if it has a leather handle, they may wipe with it; if not, they must not wipe with it. The sages hold, "That, of either kind, it [the sponge] may be moved on the Sabbath, and is not liable to contract uncleanness."

CHAPTER XXII.

§ 1. Should a cask break, sufficient may be saved to serve three meals. The owner may also call to others, "Come and save for yourselves [whatever you can];" provided, always, [that] no portion of the leakage be [spunged] up [soaked up with a sponge]. Men must not squeeze fruits, so as to extract the juice; and if it ooze out by itself, it is forbidden [to use it]. R. Jehudah saith, "If the fruits are for eating, the juice which oozes out is permitted [for use], but if the fruits are for beverage, the juice which oozes out is forbidden [for use]. If honey-cakes have been broken on the Sabbath-eve, and the honey oozes out, it is forbidden [for use]; but R. Eleazar permits [its use].

§ 2. Whatever has been dressed with hot water on the Sabbath-eve may be soaked in hot water on the Sabbath; and whatever has not been dressed with hot water on the Sabbath-eve must only be passed through hot water on the Sabbath; except stale salt fish, [small salted fishes], and Spanish קוליס;[1] as the passing these through hot water is their proper dressing [all the cooking they require].

§ 3. A man may break open a cask, to eat dry figs out of it; provided always, he does it not with the intention to prepare the cask for subsequent use. He must not pierce the bung-hole of a cask; such is the dictum of R. Jehudah; but the sages permit it. [According to another version, R. José permits it]. He must not spile a cask [bore a hole in the side thereof]: and, if it is spiled, he must not put wax on it, because he [thereby] smoothens it down. R. Jehudah said, "Such a case was once brought before R. Jochanan, ben Sachai, at Arob, when he remarked, 'I doubt whether I ought not to have inflicted a sin-offering on the accused.'"

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from some error, inverted, so that the opinion of Beth Hillel is given as that of Beth Shammai, and *vice versâ*. The remnants here spoken of are only such as may serve to feed cattle.

[1] From the Greek κολιας, *kolias*, a kind of fish which was generally cured to render it fit for eating.

§ 4. They may put cooked victuals into a cave [cellar] to save them; also put good water [in a vessel] into water that is not drinkable, to keep it [the former] cool: likewise cold water [in a vessel], into hot water, to warm [the former]. He whose clothes have dropped into the water while on the road, may unhesitatingly go on with them. As soon as he arrives at the outmost court [of the town or village] he may spread his clothes in the sun, but not before the people [publicly].

§ 5. Whoever bathes in the water of a cavern, or in the hot wells of Tiberias, though he wipe himself with ten napkins, he must not bring them away in his hand; but ten persons wiping themselves with one napkin, their faces, their hands, and their feet, may bring it away in their hands.

§ 6. They may anoint and rub the stomach with the hands, but not so as to get fatigued. They must not brush the body with a flesh brush, or descend into a קורדימה;[2] they must not take an emetic, or stretch the limbs of an infant, or put back a rupture; he who has strained his hand or foot must not pour cold water on it; but he may wash it in the usual way; and if he does get cured he does get cured.

CHAPTER XXIII.

§ 1. A man may borrow of his acquaintance jars of wine or of oil, provided he does not say to him, "Lend [trust] me;" likewise a woman [may borrow] bread from her friends [acquaintance]; if he refuses to trust him, he, [the borrower] may leave his *Taleth* [upper garment as a pledge] with the lender, and settle his account with him after Sabbath. Thus, likewise, in Jerusalem, if the eve of the passover falls on the Sabbath, a man leaves his *Taleth* with the vendor, takes his paschal lamb, and settles his account after the holy day,

§ 2. A man may verbally count the number of his guests, and also of his additional dishes [*hors d'œuvres*], but he must not do it from a written list. He may let his children and household draw [cast] lots at table, [as to who is to have part of one dish, and who is to have part of another], provided he does not [with strangers] intentionally stake a larger portion against a smaller one, on account of קוביא.[1]

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[2] A bathing place with a loamy bottom, into which it is easy to descend, but from which it becomes a matter of exertion to ascend again.

[1] From the Greek *κυβεια*, dice. The prohibition is, lest the casting of lots degenerate into a game of hazard.

They may put lots on the portions of sacrifices on the holy day, but not on the sacrifices of the preceding day.

§ 3. He must not hire labourers on the Sabbath, nor may he commission another to hire them for him. He must not stand [waiting for] the dusk at techoom,[2] in order [as soon as the Sabbath goes out] to hire labourers [beyond the techoom], or to gather fruit [beyond it]; but he may await the nightfall at the techoom, in order to watch [fruit that is beyond it]; and, in that case, he may bring fruit back with him. Abbah Saul laid down the rule, "Whatever I am permitted to prepare [for the coming day] on the Sabbath, I may get ready for at nightfall."

§ 4. They may await the nightfall close to the techoom, to forward what is necessary for a bride, and also what is necessary for a corpse, to bring a coffin and shrouds for it. If a heathen has brought mourning pipes [instruments] on the Sabbath, an Israelite must not mourn [play] thereon, unless they be brought from the vicinity. If a coffin has been made, and a grave dug for him [a heathen], an Israelite may be buried therein, but if [it has been done] on purpose for an Israelite, he must not at all be buried therein.

§ 5. They may do all that is needful to the corpse [on the Sabbath], anoint and wash it, provided they do not strain its limbs.[3] The pillow may be moved from under its head; it may be put on sand, that it keep the longer [from putrefaction]: its jaws may be tied, not to force them closer, but to prevent them dropping lower. In like manner a beam that has been broken [cracked] may be upheld [supported] by a stool or a bedstead, not that it may again become erect, but that it do not break more. They must not close the eyes of the dead on the Sabbath, nor [yet] on the week-day, while he is expiring. Whoever closes the eyes of a dying person the instant he expires, is as if he shed blood [like a murderer].

CHAPTER XXIV.

§ 1. He who [on the Sabbath-eve] is overtaken by the dusk on the road must give his purse to a heathen. If there be no heathen with him he must put it on the ass. As soon as he arrives at the outmost court [dwelling of the first town or village he reaches] he

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[2] The distance of 2000 amoth, which may be traversed on the Sabbath. (Vide Treatise Erubin.)

[3] Out of their natural position [out of joint].

takes off all such things as may be moved on the Sabbath; as to those things which must not be moved he loosens the cords, that they may fall off by themselves.

§ 2. They may untie bundles of straw for cattle; also to strew green boughs [stalks for them], but they must not undo bundles trebly tied. Herbs used as fodder, and carob pods, must not be cut up for cattle, be it large or small [kine or sheep]. R. Jehudah permits the cutting up of carob pods for small cattle.

§ 3. A camel must not be crammed [to fatten it]; nor yet forced to eat; but the food may be put into its mouth. Calves must not be crammed, but the food may be put into their mouths. Poultry may be fed: water may be poured on bran, but it must not be kneaded. They must not put water before bees, or before pigeons in a dovecot; but they may put [it] before geese, and before poultry, and before house pigeons [tame ones].

§ 4. Pumpkins may be cut up for cattle, and carrion for dogs. R. Jehudah saith, "If the carrion was not such [if the beast had not died] on the Sabbath-eve [or before], it must not be cut up; because [in that case] it is not [part] of what has been provided [for the necessary consumption of the Sabbath].

§ 5. A man may annul [disallow] vows [of his wife or daughter],[1] on the Sabbath, and consult [a sage] as to vows [relating to objects required] for the Sabbath. Window light may be shut out by blinds; a piece of stuff may be measured,[2] and also a מקוה.[3] It happened in the days of R. Zadock's father, and of Abbah Saul, that they closed a window with an earthen vessel, and then tied another vessel to a pole with withies, in order to ascertain whether, in a covered vessel [that stood on a kennel between two houses] there was an opening one hand high or not.[4] Thence we learn that [in certain cases] it may become permitted to stop up [close], to measure, and to tie, on the Sabbath.

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[1] Num. xxx. 2.

[2] To ascertain whether it is of a size liable to contract uncleanness.

[3] A bath of spring water, of legal size.

[4] To ascertain whether, through this vessel, impurity, arising from death, might be communicated from one house to the other. (Vide Mishna, Seder Taharoth).

XIII. TREATISE ERUBIN,

OR, THE COMBINATION OF PLACES AND OF LIMITS.

Introduction.

The word ערוב [erub] signifies commixture; and is used here to express the means through which the extreme rigour of the Rabbinical enactment of שבות [the Sabbath-rest] may in some degree be alleviated; inasmuch, as by these means, places are combined together, which otherwise would be distinct and separate, so that, without erub, it would be unlawful to carry any thing from one of them to another. And the distance which [without erub] it is unlawful to exceed, becomes enlarged: and thus, by this commixture, or combination of places, an extension of immunities or privileges is obtained.

The present Treatise contains regulations for the ערובי חצרות, the combining of courts; also for ערוב תחומין, the combining of limits; and for ערוב מבוי, the combining of streets, also called שתוף, junction.[1] The combining of courts treats of the rules and regulations by the observance of which the various houses standing in one court, each of which houses forms a distinct private reshuth,[2] are combined into one general reshuth. This is done, through all the householders in the court joining together in some article of food, which they

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[1] There is another commixture called ע־וב חבש־לין, combining of cookery; for which, vide Treatise Yom-tob.

[2] Vide Introduction to Treatise Sabbath.

deposit in a certain place; by doing which they are, in law, considered to declare and proclaim the whole of the court, and all the dwellings therein to be one general and common abode for all its inmates; who thereby become entitled to carry and convey from one house to another, within the limits of the court, on the day of rest.

The combining of limits treats of the rules and regulations, by the observance of which the distance which may lawfully be traversed on the day of rest becomes extended. According to the Mishna, no man is allowed to go beyond 2000 paces from the bounds of his domicile on the day of rest. He who intends to go further, must deposit food for two meals in any particular place before the coming in of the day of rest; by doing which, he is, in law, considered to declare that particular place as his domicile, and he may then go 2000 paces beyond it.

The combining of streets, treats of the rules to be observed with respect to narrow streets, which otherwise would be considered as a private reshuth. And also with respect to public places, inclosed on three sides, which otherwise would be considered as carmelith;[3] but which, by means of a cross-beam, or a wire, or a rope, are converted into a private reshuth.

In the practice of these rules the utmost nicety and strictness is required, which it is the object of this Mishna to teach and to enforce.

CHAPTER I.

§ 1. Should an entry be higher than twenty amoth, [its height] must be lessened [by lowering the cross-beam]. R. Jehudah saith, "This is not necessary; should it be wider than ten amoth [its width] must be lessened; but if it has the form [appearance] of a door [gate], even though it be wider than ten amoth, it is not necessary to lessen [its width]."

§ 2. To legalize [the carrying or conveying within] an entry [to a place inclosed on three sides], Beth Shammai hold, "[that] a post and a beam [are required];" but Beth Hillel hold, "[that either] post or beam [is sufficient];" R. Eleazar saith, "two posts." On the authority of R. Ishmael, a disciple stated before R. Akivah: "Beth Shammai and Beth Hillel did not differ [in opinion] as to an

[3] Vide Introduction to Treatise Sabbath.

entry less than four amoth wide, [for they both agreed that] such [an entry] becomes legalized either through a beam or a post." On what did they differ? [Respecting] entries upwards of four amoth wide, and up to ten amoth: of these Beth Shammai hold, "that a post and a beam are required;" while Beth Hillel hold, "[that either] post or beam [is sufficient]." R. Akivah said, "They differ as to the one and as to the other."

§ 3. The beam in question must be wide enough to receive an אריח, which is half of a brick, three hands in length and in width; it is, however, sufficient that the beam be one hand wide, so as to hold a half brick lengthwise.

§ 4. [The beam must be] wide enough to hold a half brick, [and also] sound enough to bear one. R. Jehudah saith, "It must be wide [enough], even though it be not sound [enough]."

§ 5. [Should the beam] be of straw or of reed, it is [in law] regarded as if it were of metal; should it be crooked [bent outwards], it is [in law] regarded as if it were straight; should it be cylindrical, it is [in law] regarded as if it were square. Whatever [measures] three hands in its circumference, holds one hand in width.[1]

§ 6. The posts in question, must be ten hands high, be their breadth and thickness whatever it may: R. José saith, "Their width must be three hands."

§ 7. [Such] posts may be made out of any thing, even of that which is possessed of life; [this last, however,] R. José prohibits. [A living animal tied on a grave to close it up] communicates uncleanness [even after it be removed therefrom]. R. Meir saith it is clean, "A letter of divorce for a woman may also be written thereon[2] [a living animal];" but R. José, the Galilæan, pronounces it "[the letter of divorce so written] null, [not valid in law]."

§ 8. Should a caravan encamp in a valley, and a fence be made around it with the cattle's gear, it is lawful to move things within the fence [on the day of rest]; provided always that the fence be ten hands high, and the gaps [open spaces] therein, do not exceed [in extent] the actual fencing. Every gap [avenue] which is about ten hands [wide], is permitted; for it is considered as a door [gate], [but gaps which are] more than ten hands wide are prohibited.

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[1] This computation is but approximative. The exact proportion of the diameter to the circumference, is as 100 to 314.

[2] Vide Treatise Gittin, chap. II. § 3.

§ 9. [The caravan may also be] fenced round with three ropes, one above the other; provided always there be between each rope less than three hands [interspace], and that the measure [width or thickness] of the three ropes [together] exceed one hand, so that the whole make up [the] ten hands.

§ 10. The caravan may also be fenced round with cane-laths; provided always the interspace between cane and cane be less than three hands. [All these regulations are limited to] spoken of a caravan [only]. Such is the dictum of R. Jehudah; but the sages maintain, "[that] the caravan is [especially] spoken of, solely [in order to adduce an instance] from that which actually exists."[3] Any partition which is not [constructed on the principle] of warp and shoot is not a [lawful] partition. Such is the dictum of R. José bar Jehudah; but the sages hold, "[the constructing it according to] either one of the two [principles is sufficient]." Four immunities have been granted [to warriors] in a camp: they may bring wood from any place [without respecting the rights of ownership]; they need not wash their hands before meals; they may eat of דמאי;[4] and they are absolved from the obligation of erub.[5]

CHAPTER II.

§ 1. Inclosures [partitions] must be made round wells: [they must be made of] four double deal-boards, [placed at the corners of the well so that the four deal-boards] appear like eight. Such is the dictum of R. Jehudah; but R. Meir saith, "Eight [deal-boards must be used], which appear [as if there were] twelve, [namely] four double deal-boards and four single ones; their height must be ten hands, their width six hands, whatever may be their thickness; [the interspace] between them [must not be wider] than to pass two teams of cattle, each team of three beasts abreast." Such is the dictum of R. Meir; but R. Jehudah saith, "each team of four beasts abreast,"[1] that is to say, of cattle yoked together in a team,

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[3] Consequently, all these rules and regulations apply to the single traveller; who also enjoys the benefit thereof, should he encamp on the day of rest.

[4] Fruit or corn, respecting which it is doubtful whether the legal dues [heave-offering], tithes, &c., have been acquitted or not.

[5] Combining the different tents which compose the camp.

[1] The space in width allowed for an ox is $1\frac{2}{3}$ ell; so that, according to the opinion of R. Meir, the interspace must not exceed 11 ells; while R. Jehudah allows $14\frac{1}{3}$ ells.

but not walking loose [unyoked], so that one enters as the other passes out.

§ 2. It is permitted to bring the inclosure quite close to the well; provided always that the head and greater part of the body of a cow [animal] be within [the inclosure] while it drinks. It [the inclosure] may [likewise] be placed at some distance from the well, provided that more deal-boards [be used].

§ 3. R. Jehudah saith, "[The greatest distance from the well, at which it is permitted to place an inclosure is] two beth saah;"[2] but they [the sages] said to him, "[The size of] two beth saah is only applicable to a garden or a wood-store, but as for a pen [for cattle], or a fold, or a drying [bleaching] ground [behind the house], or a court [in front of the house], even though it be of the size of five beth kur,[3] yea, even of ten beth kur, it is lawful [to carry or move things therein on the day of rest]." It is [therefore] permitted to place [the inclosure] at any convenient distance [from the well], provided that more deal-boards [be used].

§ 4. R. Jehudah saith, "If a public thoroughfare interrupts [passes through] the inclosure, it must be closed up [with boards], at the sides [towards the thoroughfare]; but the sages hold, it is not necessary. Whether it be a public cistern, or a public well, or a private well, [such an inclosure of] boards must be made for it; but to a private cistern, a partition ten hands high is to be made. Such is the dictum of R. Akivah; but R. Jehudah ben Babah saith, "An inclosure of deal-boards must be made only for a public well; for all others [it is sufficient to] make a girth [rope fence], ten hands high."

§ 5. Moreover, R. Jehudah ben Babah also said, "If a garden or wood-store be somewhat above seventy amoth square, and is encompassed [inclosed] by a wall ten hands high, it is lawful to move [carry things] therein; provided always that there is a watch-box, or dwelling [of some kind within the garden or store], or that it be close to the town;" but R. Jehudah saith, "Even though there be nothing [else] within it than a cistern, or a reservoir, or a cave, it is lawful to move, carry things within it [the garden or store]." R. Akivah saith, "Even though there be not one of all these [objects] within [the garden or wood-store], it is lawful to move [carry things] therein [on the day of rest], provided it do not measure much above seventy square amoth." R. Eleazar saith, "If the length [of such a

[2] Vide Treatise Kilaim, chap. II. § 2.

[3] Ibid. § 9.

garden of wood-store] exceed its width by even a single amah, it is not permitted to move [carry things] therein;" but R. José saith, "Even though its length be twice its width, it is lawful to move [carry things] therein."

§ 6. R. Elai said, "I heard from R. Eleazar, that even though it [the garden or wood-store] should be an entire beth kur [in extent], it is permitted to move or carry things therein on the day of rest. I also heard from him, that if one of the householders of a court had forgotten, and not [joined in] the erub, it is unlawful for him to carry any thing out of, or into, his house; but to them [the other inmates of the court] it is permitted [so to do]. Moreover, I heard from him, that a man might fully acquit himself of his duty[4] on the Passover, by using עקרבנין;[5] and I inquired among all his disciples, seeking a companion [who had likewise heard him pronounce these opinions], but I could not find [meet with one]."

CHAPTER III.

§ 1. With all kinds of nutriment the erub or junction may be effected, except with water and salt. All [kinds of nutriment] may be bought for the proceed of the second tithe, except water and salt. He who has vowed [to abstain] from food, is permitted [to partake] of salt and of water. The erub may be made for a nazir[1] with wine, and for a [common] Israelite[2] with heave-offering. Symmachus saith, "that חולין[3] [only must be used] for [the erub of a common] Israelite. The erub of a cohen[4] [may be placed] on a spot which has formerly been used as a cemetery." R. José saith, "it may even [be placed] in an actual burying-ground, since he [the cohen] may go and eat it outside [the burying-ground].

§ 2. For the erub demai[5] may be used: first, tithes from which the heave-offering has been taken; and, second, tithes and consecrated things that have been redeemed; and for priests, חלה,[6] and heave-

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[4] To eat bitter herbs.

[5] Scolopendrium [hart's-tongue].

[1] A nazir, by his vow, must abstain from wine. (Vide Num. vi. 3).

[2] Whosoever is not a cohen, or Levite, is a common Israelite, and must not partake of holy food. (Vide Lev. xxii. 10). The erub here in question is the combining of limits, for to that or courts bread is indispensable.

[3] Things not consecrated.

[4] A priest, descendant of Aaron.

[5] Vide chap. I. § 10, note [4] of this Treatise.

[6] The first offering of the dough. (Vide Num. xv. 17, and Treatise Chalah).

offering. But it is not lawful to use טבל,[7] or first tithes, from which the heave-offering has not been taken; or second tithes, and consecrated things which have not been redeemed. Should any one send his erub by the hand of a deaf and dumb person, of an idiot, of a minor, or of one who does not acknowledge [the legal validity of] the erub,[8] it is not a [legal] erub: but if he has commissioned another [proper] person to receive it from [his messenger], it is a [legal] erub.

§ 3. If a man puts it [the erub] in a tree higher than ten hands from the ground, his erub is no [legal] erub; [but if he puts it] lower than ten hands, his erub is a [legal] erub. If he has put it into a pit, even though that be a hundred amoth deep, his erub is a [legal] erub. Should he put it on the top of a cane, or pole, that does not actually grow out of the ground, but is only stuck therein, even though it be a hundred amoth high, his erub is a [legal] erub. If he has put it into a cupboard, which he locked, and has lost the key, it is a [legal] erub. R. Eleazar saith, "If he does not know where the key is, it is not a [legal] erub."[9]

§ 4. Should the erub roll [or be moved] out of the limit [of the Sabbath distance], or should a heap [of mould] fall on it, or should it be burned, or if heave-offering get unclean, [if either of all these take place] while yet day, [before the Sabbath comes in], it is not a [legal] erub; [but if it take place] after dusk, it is a [legal] erub. If [the time when it took place is] doubtful, R. Meir and R. Jehudah say, "This is [at once driving] an ass [and leading a] camel."[10] R. José and R. Simeon say, "A doubtful erub is good [in law]." R. José further said, "Abtolymus attested, on the authority of five elders, that a doubtful erub is good [in law]."

§ 5. A man may attach conditions[11] to his erub, and say, "If foes

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[7] Vide Treatise Sabbath, chap. XVIII. § 1, note [1].

[8] Any of the numerous sectarians who did not acknowledge the authority of tradition and of the oral law.

[9] The locks in question were formed out of leather thongs, which might be cut through if the key was lost. The doing of this R. Eleazar considers unlawful on the day of rest.

[10] The ass a man drives before him, and the camel he pulls along from behind him; so that he needs have his eyes both before and behind. It is a proverbial expression, denoting, that a man is hemmed in all ways. Its application in the present instance arises from the circumstance, that the erub prevents him who prepared it from going in any other direction, while the doubt of its legality prevents his enjoying its privilege, so that it actually becomes penal.

[11] He must, however, deposit a separate erub in each of the two directions.

come from the east, my erub [shall stand good] for the west ;[12] [if they come] from the west, my erub [shall stand good] for the east; should they come from both sides, I [am at liberty to] go in what direction I please; should they not come from either side, I am like [the rest of] my townsmen; should a sage come from the east, my erub [shall stand good] for the west ;[13] [should one come] from the west, my erub [shall stand good] for the east; [should one] come from each side, I [am at liberty to] go in which direction I please; [should] none [come] from either side, I am like the rest of my townsmen." R. Jehudah saith, "If one of them [the two sages who come] has been his teacher, he must go to meet his teacher; but if both have been his teachers, he goes in which direction he pleases."

§ 6. R. Eleazar saith, "When a festival follows next to a Sabbath, whether before or after it, a man prepares two erubin, and he may say, 'My first erub [is to stand good] for the east, and the second for the west; or the first for the west, and the second for the east. My erub [is to stand good for] the first [day]; and the second [day I am] like my townsmen; or my erub [is to stand good for] the second [day], but the first [day I am] like my townsmen.'" But the sages hold, "that he can [only] prepare his erub for one direction, or it does not stand good at all; [likewise] that he must prepare his erub for both days, or it does not stand good at all. But how must we do? He carries it [the erub] out [to the place where he means to deposit it] on the [eve of] the first [day of rest], and remains with it until dusk, when he carries it [back with him]. He then brings [the erub] out again on the second [day], remains with it till dark, and then eats it. It is found [that thus] he gains his walk [beyond the Sabbath-limit], and he gains by [eating] his erub. Should he eat [his erub] on the first [day] it is a [legal] erub for the first [day], but is not a [legal] erub for the second [day]." R. Eleazar said, "[Thus] ye acknowledge to me that they are two [distinct] holy-days."[14]

§ 7. R. Jehudah saith, "If a man apprehends that the new year will be celebrated two days,[15] he must prepare two erubin." He then

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[12] To fly from them.

[13] To meet and welcome him.

[14] Consequently two erubin are admissible.

[15] In the days of the Mishna, the new moon and new year were fixed, not by astronomical calculation, as at present, but by actual lunar observation; and it depended on the early or late appearance of the witnesses whether one or two days were to be kept. R. Jehudah is of opinion, "that if two days are cele-

says, "My erub of the first [day] [shall stand good] for the east, and of the second [day] for the west; or of the first [day] for the west, and the second for the east. My erub [shall stand good] for the first [day], and on the second [day] I am like my townsmen; or my erub [shall stand good] for the second [day], but on the first [I am] like my townsmen:" but the sages did not coincide with him.

§ 8. R. Jehudah further said, "A man may conditionally fix [select] [the heave-offering of] a basket of fruit on the first day of the new year [festival], and eat it on the second [day];[16] so, likewise, an egg which is laid on the first [day] may be eaten on the second:" but the sages did not coincide with him.

§ 9. R. Dosa ben Harkeenass saith, "He who stands before the reading-desk [to pray] on the first holy day of the Rosh-ashanah, must say, 'Strengthen [support] us, O Lord our God, on this day of the new moon, whether to-day or to-morrow [be the true one].' And on the morrow he says [the same prayer, with the variation], 'whether this day or yesterday [be the true one]:'" but the sages did not coincide with him.

CHAPTER IV.

§ 1. If foes, or an evil spirit [a fit of insanity], have caused a man to go out [beyond the Sabbath-limit], he must not [when recovering his own free agency] move further than four amoth; if they [the foes or the fit] have carried him back, it is as if he had not gone out [beyond the limit]. If they have carried him into another town, or put him into a pen [prison] or fold [for cattle], he may, according to Rabbon Gamaliel, and R. Eleazar ben Azariah, "go about throughout its whole [extent];" but R. Joshua and R. Akivah maintain, "that he must not move further than four amoth." It once hap-

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brated, they form two distinct holy days, and therefore require two erubin." But the sages did not coincide with him, as they consider the two days as but one holy day.

[16] It is not lawful to select the heave-offering [consecrated for the use of the priesthood] on a holy day. The condition in this instance is: on the first day the man says, "If this be a working-day, this crateful shall be the heave-offering for these fruits; but if this be a holy day my selection is void, and I may eat these fruits as non consecrated." And on the second day he says, "If yesterday was a working-day, my selection stands good; but if yesterday was a holy day my selection is void," &c.

pened that they [these four sages] came together from Parendisim,[1] and their vessel kept the sea [on the Sabbath]: Rabbon Gamaliel and R. Eleazar ben Azariah walked about throughout the whole [extent of the vessel]; but R. Joshua and R. Akivah did not move beyond four amoth, as they wished [to take] the rigid [observance] upon themselves.

§ 2. Once [on the Sabbath-eve] they [the sages, being on board a vessel] did not enter the haven [landing-place] till after dark; they inquired of Rabbon Gamaliel, "What are we [to do as] to descending [from the vessel]?" He answered them, "It is permitted; for I observed that we had already entered [within] the limits [of the Sabbath distance] before dusk."

§ 3. He who is authorised to go out [beyond the legal distance] on business of importance to public or private welfare [or safety], and is told "the thing is already done," has [the liberty to go] 2000 amoth in any direction. If he still was within the Techoom [the lawful Sabbath distance], it is as if he had not gone forth at all; for all those who go forth to save are [permitted to] return to their abodes [on the day of rest].

§ 4. If a man sits down by the road-side [towards dusk on the Sabbath-eve], and then gets up and sees that he is near a town, as it had not been his intention to enter the town, he must not enter.[2] Such is the dictum of R. Meir; but R. Jehudah saith he may enter.[3] R. Jehudah said, "It once happened that R. Tarphon entered [a town], although [it had] not [been] his intention [so to do]."

§ 5. He who falls asleep on the road [the eve of the day of rest], and knows not that it is become dark [night has set in] has [when he awakes], the right of going 2000 amoth in any direction. Such is the dictum of R. Eleazar ben Nourie; but the sages hold, that he has [only the right to move] four amoth. R. Eleazar saith, "and he is in [forms] the centre[4] [of these four amoth]." R. Jehudah saith, "He can go [four] amoth in whichever direction he pleases;" but R. Jehudah admitted, "that if he [such a person] has

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[1] This is supposed to be Brundusium, the usual place of embarkation for those who proceeded from Rome to Greece and the East.

[2] That is, he must not proceed further than the legal distance of 2000 amoth into the town; so that he has not the same privilege as others who may traverse its whole extent.

[3] And is entitled to partake of the privilege.

[4] So that he has only two amoth to move in.

made his choice, he cannot [afterwards] go back therefrom [recall or alter it]."

§ 6. If there be two [persons so situated], and part of the four amoth [permitted] to each are within the limits of the other,[5] they may meet and take their meal together, in the middle [of their joint space]; provided always, that neither of them exceed his own limits by going into those of his neighbour. If there are three persons [so situated], and [part of the four amoth belonging to] the middle one is swallowed by [forms part of the limits belonging to] the others, [each of the two outside ones],[6] he is at liberty to meet each of them, and each of them may meet him; but the two outside ones are not permitted to meet each other. R. Simeon saith, "What is this like? Three courts opening into each other, and also open towards the public reshuth; if the two outer ones have joined in erub with the middle one, they are at liberty [to carry and convey from the middle court] to each of the outer ones, and from them into it; but the two outer ones must not [carry and convey] from one to the other."

§ 7. If a man be on the road, and is overtaken by the dusk [on the eve of the day of rest], should he distinguish [single out] a tree or hedge, and say, "Under it [I will take] my Sabbath rest," it is [in law] as if he had said nothing;[7] [but should he say], "At its basis [I will take] my Sabbath rest," he may go from the spot on which he stands to the base [of the tree or hedge], 2000 amoth, and from the base unto his domicile 2000 amoth [more]; thus it is found that, after dark, he may go 4000 amoth.

§ 8. If he cannot distinguish [single out a tree or a hedge], or should he not be conversant with the halachah [decisions of the oral law], if he says, "[I will take] my Sabbath-rest on the spot [where I stand]," the spot [which he occupies] obtains for him 2000 amoth in any direction; in a circle, according to the dictum of R. Haninah ben Antigonus: but the sages hold [that he has 2000 amoth] square, so that he gains the angles.

§ 9. This [rule above laid down] is the explication of their [the sages'] saying, "The poor prepares his erub with his foot." R. Meir saith, "This rule [then] we apply only to the poor;" but R. Jehudah replied, "To the poor and to the rich [alike], inasmuch as the erub with bread was only decreed, to make the observance more easy for

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[5] Supposing they are six amoth asunder.

[6] Supposing the two outside ones are ten amoth asunder.

[7] So that he must not move further than four amoth.

the wealthy, so that he should not be forced to go out on his own feet to prepare the erub.

§ 10. If a man [on the eve of the day of rest] has been dispatched by his townsmen, to combine by erub a town [or village in the vicinity], and has been induced to go back by a neighbour [before he has completed his errand], he is permitted to go [to the place in question]; but all his townsmen are forbidden [to go thither]. Such is the dictum of R. Jehudah; but R. Meir saith, "Whosoever can prepare the erub, but does not prepare it, is [like at once driving] an ass [and leading] a camel."

§ 11. Whoever is gone beyond the techoom, even [the distance of] a single amah, must not go back [the whole techoom]. R. Eleazar saith, "[If he has gone] two amoth [beyond the techoom] he may go back, but if three amoth, he must not go back."[8] R. Simeon saith, "Even [should he go] fifteen amoth [beyond the techoom] he may go back, as the land-surveyors [who fix the limits] are not very exact in their measurement, as they take into consideration those who might err."[9]

CHAPTER V.

§ 1. How can the bounds of a town be enlarged [extended]? If one house recede [from the city wall], and [another] house project [therefrom], or if a ruin recede or project, or if fragments of a wall ten hands high [lie beyond the walls], or if there be any bridges or cemeteries, with dwelling-houses thereon, the measurement of the town is commenced from them; and the whole is formed into a kind of square, in order to gain the angles.

§ 2. An allowance of [seventy and two-thirds amoth] space must be made to the town. Such is the dictum of R. Meir; but the sages hold, "that such an allowance is to be made only if two towns be so close to each other, that each only requires seventy and two-thirds

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[8] R. Eleazar is of opinion, that the man has four amoth beyond the techoom, of which four amoth he forms the centre, so that he may move two amoth.

[9] According to Rashi, those who measured the ground did not measure from the end of the line, but from the end of their hand; so that the portion of the line they held in their hand was not included in the measurement, which was thus lessened by fifteen amoth. Others aver, that the legal distance was purposely shortened by fifteen amoth.

amoth [to bring them within techoom; in that case] an allowance is made to both, [so that they become] as one."

§ 3. So likewise, if three villages form a triangle, and the two outer ones require 141⅓ amoth, [a double allowance to bring them within techoom of each other], he [in idea] places the third one between them, so that the three become as if they were one.

§ 4. They are not to measure [the techoom], except with a line [exactly] fifty amoth long, neither more nor less; and he [who measures] must not measure except from his breast.[1] If, during the measurement, he arrives at a deep dale [cleft], or heap of stones, he passes [his line] over it, and resumes his measurement, if he arrive at a hillock, he passes [his line] over it, and resumes his measurement, provided always he does not outstep the techoom [in so doing]. If he cannot pass [his line] over [the hillock, because it is too high], R. Dostai bar Janai said of such, [a circumstance] I have heard on the authority of R. Meir, "that they [who measure] cut straight through the mountain [in idea]."

§ 5. The measurement must be undertaken by him only who is expert [in measuring land]. [If the techoom has been carried] farther to one place, and less far to another, they abide by the farther [measurement]. If one surveyor [has carried the limit] farther than another, they abide by the farther [measurement]. Even a bond-man or a bond-woman is credible [entitled to belief], if either say, "Until here, is a techoom Sabbath;" for the sages did not intend to enforce a more rigid observance, but to make it more easy.

§ 6. If a town [originally the property] of a single individual, becomes [property] of the public, all [the householders residing thereon] must join in preparing the erub. [Should the town originally have been property] of the public, and is become [property] of one individual, all [the householders] are not to join in the erub, but [a number] must be left out equal to the new town in Judæa, in which there are fifty dwellings. Such is the dictum of R. Jehudah; but R. Simeon holds, "[it is sufficient if] three courts, with two houses in each [are left out]."

§ 7. Should a man [on the eve of the day of rest] be at the east [of his habitation], and say to his son, "Place my erub towards the west;" or [being] to the west [of his habitation], he say to his son,

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[1] That is to say, while measuring he invariably holds the line to his breast; this has been enacted to ensure an uniformity in the measuring.

"Place my erub to the east;" if [the distance] from the place where he is to his habitation is [within] 2000 amoth, and to his erub further than that, he must take his Sabbath-rest[2] at his habitation, but must not take it at his erub; [if the distance] to his erub be [within] 2000 amoth, and to his habitation further than that, he must take [his Sabbath-rest] at his erub, but must not take it at his habitation. If a man has deposited his erub within the limits of a town, he has [in law] done nothing, and it is nothing; if he has deposited it [the erub] out of the techoom, even though but a single amah, whatever extent of ground he gains in this direction, he loses in the opposite one.[3]

§ 8. The inhabitants of a large town may traverse the whole of a small town [that lies within or adjoining their techoom], but the inhabitants of the small [town] must not traverse the whole extent of the large town.[4] How are they to do? If an inhabitant of the large town place his erub in the small town, or an inhabitant of the small town place his in the large town, each may traverse either town, and proceed 2000 amoth beyond its confines. R. Akivah saith, "He has only [the right to proceed] 2000 amoth from the place where he deposited his erub."

§ 9. R. Akivah said to them [the sages], "Will ye not grant me, in the case of him who deposits his erub in a cavern, that he has not [the right to proceed] further than 2000 amoth from the place where he has [left] his erub?" They replied "[True; but] when is this the case? if there are no habitations within the cavern; but if there are habitations [prepared] within it,[5] he may not only traverse the whole of the cavern, but also proceed 2000 amoth outside of it." [Consequently, the observance] is found less rigid as to the interior [of a cavern], than as to [the space] above [it]. As to him who measures [spoken of before], he is only allowed [to carry the techoom] 2000 amoth [from the place whence he started], even though the end of his measurement should terminate in a cavern.

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[2] The spot from whence he is entitled to proceed 2000 amoth, in any direction, on the day of rest.

[3] The techoom becomes diminished (to him individually) in one direction, by the same extent that he has enlarged it in the opposite direction.

[4] They must not exceed their legal Sabbath distance of 2000 amoth from the bounds of their town.

[5] In Palestine there are many spacious caverns which are prepared so as to be fit for human habitations; they have frequently been inhabited, particularly in times of religious persecution.

CHAPTER VI.

§ 1. He who dwells in one court with a heathen, or with one who does not acknowledge [the validity of] erub, is through them prohibited [from carrying or moving therein]. Such is the dictum of R. Meir; but R. Eleazar ben Jacob saith, "At no time can [such] a prohibition be caused, unless by two Israelites who prevent each other."

§ 2. R. Gamaliel related, "It happened that a Sadducee dwelt with us in one alley, in Jerusalem; and my father said to us [on the Sabbath-eve], 'Make haste and bring all the vessels into the alley, lest this [Sadducee] bring out his, and make it unlawful for you [to carry out yours].'" R. Jehudah related [the same circumstance], with a variation in the language: "Make haste and do what you require [done] in the alley, lest he come out and make it unlawful for you."

§ 3. Should one of the householders of a court forget, and not join in the erub, it is unlawful for him and for them [the other inmates of the court], to carry any thing out of, or into his house; but their [houses] it is lawful for him and for them to carry into, and out of; if they [the other inmates] have resigned to him their [common] right [to the court], he is permitted [to carry and convey therein], but they are forbidden [so to do]. If there be two [who have neglected to join in the erub], they impede each other; for one individual can renounce [the] right [to the court], and can acquire [that] right; but two persons [though they can jointly] renounce the right, cannot [jointly] acquire the right [to the exclusive use of the court].

§ 4. From when is the right to be conferred? Beth Shammai hold, "while it is yet day-light;" but Beth Hillel hold, "from dusk [on the eve of the day of rest]." Whoever renounces his right [to the court], and afterwards carries [or conveys within it], whether he does it inadvertently or intentionally, he renders it unlawful for them [the other inmates of the court to carry or convey therein]. Such is the dictum of R. Meir; but R. Jehudah saith, "If he does it intentionally, he makes it unlawful [for them], but if inadvertently, he does not make it unlawful."

§ 5. Should a householder be in partnership in [one cask of] wine with two of his neighbours [residing in the same alley], they require no erub; if he is partner with one in wine, and with one in

oil, they do require an erub: R. Simeon saith, "In the one [case] as in the other, they do not require any erub."

§ 6. Should five different companies take their Sabbath-rest in one saloon,[1] Beth Shammai hold, "that each company requires a separate erub;" but Beth Hillel hold "that one erub [is sufficient] for [them] all." Both agree, that if any of these companies occupy distinct chambers, or attics, [then] each company requires a separate erub.

§ 7. Brothers, or associates, who take their meals at their fathers', [or at one] table, but sleep [each] in his [separate] house [in the same court], must each one prepare a separate erub. Therefore, if one of them has forgotten, and not prepared an erub, he must renounce his right [to the common court]. When is this the case? When the erub has been deposited in some other place [house]; but if the erub has been placed with them, or if there are no other inhabitants in the court, they need not prepare any erub.

§ 8. Five courts that open into each other, and also open into one [common alley], if they [the householders therein] have joined in erub for the courts, but have not combined the alley,[2] they are permitted [to carry and convey] in the courts, but are prohibited [so to do] in the alley; but if they did combine the alley, they are permitted in both [courts and alley]. If they have combined the courts and also the alley, should one of the householders of the courts forget, and not join in the erub, they are [nevertheless] permitted [to carry and convey] in both [courts and alley]; should one of the householders of the alley have forgotten to join in the combination, they are permitted [to carry and convey] in the courts, but are forbidden [so to do] in the alley, [inasmuch] as the alley is [in the same relation] to the courts, as the courts [are] to the houses [within them].

§ 9. If two courts be one within the other, [should] the [inmates of the] inner court prepare its erub, and [those of] the outer court not, [the inmates of] the inner court may [carry and convey within it], but [those of] the outer court must not [do so]. Should [those of] the outer court have prepared the erub, but not [those of] the inner court, both are prohibited; if each have prepared its separate erub, the [inmates of] each are permitted [to carry or convey] within its own limits. R. Akivah holds that the outer court is prohibited, and that the right of thoroughfare [possessed by the inner court]

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[1] טרקלין, from the Latin *triclinium;* here it means one saloon divided by partitions into five compartments, each having a distinct outlet into the court.

[2] Vide Introduction to this Treatise.

renders it so; but the sages hold that this right of thoroughfare does not render [the outer court] prohibited.

§ 10. Should one [of the householders] of the outer court forget to join in the erub, the inner court is permitted, but the outer court is prohibited. Should one [of the householders] of the inner court forget to join in the erub, both are prohibited. If they both deposit their erub in one place, and one [of the householders], whether of the inner or of the outer [court] forgot, and did not join in the erub, both are prohibited. Should each court be the property of a single individual, [or inhabited by one household only] they require no erub.

CHAPTER VII.

§ 1. If there be an aperture [opening] four hands square, and [not quite] ten hands high [from the ground], between two courts, [the inmates of each court may] prepare two separate erubin; or if they prefer it, [may join in] one erub. If the opening be less than four hands square, or above ten hands high from the ground, they must each prepare their separate erub, and may not join in one.

§ 2. If there be a wall ten hands high and four hands wide, between two courts, they [the inmates of each] must prepare a separate erub, and may not join in one. If there lie fruit on the wall, they may ascend from each side to eat thereof, provided always they bring none thereof down with them. Should there be a gap [breach] in the wall, not wider than ten hands, they may prepare two erubin, or if they prefer it, join in one, because it [the breach] is considered as a door [gate]. [Should the breach be] wider than this [ten amoth], they must both join in one erub, and not prepare two separate ones.

§ 3. If a trench [or ditch] separate two courts, should it be ten hands deep, and four wide, they [the inmates of each court] must prepare two separate erubin, and may not join in one, even though it [the trench or ditch] be filled with stubble or with straw. Should it [however] be filled with mould or stones, they must join in one erub, and not prepare two separate ones.

§ 4. If a board [plank] four hands wide, has been put across the ditch [trench], and in like manner, if two projecting balconies have been connected by means of such a board or plank, they [the inmates] may prepare two erubin, or if they prefer it, they may join in one; but [if the board or plank be] less [wide] than this [four hands], they must each prepare a separate erub, and not join in one.

§ 5. If there be between two courts a straw-rick, ten hands high, they [the inmates] must prepare two separate erubin, and may not join in one. The cattle may be fed [thereof] from each side; and when the rick becomes lower than ten hands, they must join in one erub, and not prepare two.

§ 6. How are [streets or] alleys to be combined?[1] A man places a cask of wine [in the alley], and says, "This shall be for all the inmates of the alley,"[2] he may confer on them the right thereto, either through his grown-up son or daughter, or through his Hebrew man-servant or maid-servant, or through his wife; but he cannot confer the right thereto through his minor son or daughter, or through his Canaanitish bond-man or bond-woman, because they are altogether dependant on him.

§ 7. If the [quantity of] food [required to effect the combination] becomes decreased, he may [by himself] add [thereto], and confer the right, without giving them [the other inmates] notice [thereof]; but if [some of] them join him, he adds [sufficient food to make up the quantity required], confers the right [thereto] on them, and gives them notice thereof.

§ 8. How much is the legal quantity [of food required to combine streets or alleys]? When they [who join therein] are numerous, food sufficient for two [Sabbath] meals for all of them; but if they be few, the size of a dried fig, [which is also the quantity of food unlawful for any one] to carry out on the Sabbath,[3] for each of them.

§ 9. R. José said, "To what does the [preceding] regulation apply? To the first preparation for the erub; but to continue the erub, any quantity [of food, however small, is sufficient]." Nor did the sages direct that [where the combinations of an alley had been effected] an erub should be prepared for the [different] courts, except that the children might not become oblivious [altogether forget the rule of erub].

§ 10. With all [kinds of nutriment] the erub or combination may be effected, excepting only water and salt. Such is the dictum of R. Eleazar; but R. Joshua saith, "[Nothing but] a [whole] loaf of bread is a [lawful] erub." Should even a [whole] saah [of flour] be

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[1] Vide Introduction to the present Treatise.

[2] Whosoever lifts it off the ground acquires the right to drink the wine, and to join in the combination.

[3] Vide Treatise Sabbath, chap. VIII. § 4.

baked into one loaf, but that is broken, it must not be used for erub; [whereas] a [small] loaf for an eesar,[4] provided it be whole, may be used for an erub.

§ 11. A man may give money to the wine-seller or baker, thereby to acquire the right to [join in] the erub. Such is the dictum of R. Eleazar; but the sages hold, that his money cannot acquire for him the right to [join in] the erub. They however admit, that [if he has given] his money to any other person, [with the commission to effect his erub], it will acquire for him the right to [join in] the erub, since no erub can be effected for a man without his knowledge. R. Jehudah said, "To what do the [preceding] observations apply?" To the combining of limits: but in the combining of courts a man may be joined with or without his knowledge; because a right may be conferred on a person, though he be not present, whereas, he must not be deprived of any right in his absence.

CHAPTER VIII.

§ 1. How are techoomin[1] to be combined? A man places a cask [of wine], and says, "This is for all my townsmen, for all who go to the house of mourning, and for all who go to the house of feasting." Whosoever joins [in the combination] while it is yet day-light [on the eve of the day of rest], is permitted [so to do]; but after dusk it is prohibited, because the erub must not be deposited after dark.

§ 2. How much is the legal quantity [of food required to effect the combination of techoomin]? Food for two meals for every one [who joins therein], for working-day meals, but not for Sabbath meals. Such is the dictum of R. Meir; but R. Jehudah saith, "for Sabbath-meals, but not for work-day meals." Both however intend to render the observance more easy.[2] R. Jochanan ben Berokah saith, "[It is sufficient to effect the combination if there be] a loaf

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[4] A small coin; probably the Roman "as."

[1] Vide Introduction to the present Treatise.

[2] Each of them considers his quantum as the less: R. Meir, because the food for working-days is coarse, of which no more is taken than just enough to satisfy nature; R. Jehudah, because, on the Sabbath three meals are taken, so that the quantity for each meal is smaller than on other days.

for a *pundion*, when the price of four saah flour is one selah."[3] R. Simeon saith, "two-thirds of a loaf [such as go] three to the kab of flour."[4] Half [of such a loaf is the standard time for remaining] in the house of a leper;[5] and the half of a half [of such a loaf of unclean food] to make the body unclean.[6]

§ 3. If the inhabitants of a court and the inhabitants of a gallery [in the court] should have forgotten to join in erub, whatever is above ten hands high [from the ground] is considered as belonging to the gallery; and whatever is less than ten hands high [from the ground] is to be considered as belonging to the court. The mould [dug and heaped up] out of a ditch [or trench], or a stone, [if either be] ten hands high, [belongs] to the gallery; [but if] less than this [ten hands high, it belongs] to the court. When is this the case? [If the heap or stone be] close [to the gallery], but [if either be] separated [therefrom], even though it be ten hands high, [it belongs] to the court. What is [considered as] close? Whatever is at less distance than four hands.

§ 4. If a man deposit his erub [for combining courts] in a gateway [porter's lodge], or in a hall [entry], or in a gallery, it is no [legal] erub. Should any dwell there [who has not joined in the erub], he cannot render the court unlawful [to prevent the other inmates to carry or convey therein]. If a man deposit his erub in a straw store, or in a stable, or in a wood-shed, or in a granary, it is a [legal] erub; and he who dwells there renders the court unlawful [if he has not joined in the erub]. R. Jehudah saith, "If the householder has reserved to himself the right of keeping his utensils there [in such a loft, stable, shed, or granary], he [who dwells there] does not render the court unlawful."

§ 5. If a person quits his house, and goes to take his Sabbath-rest

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[3] A saah is equal to six kab; the selah is four dinar; a dinar is six manah; the manah, two pundion; and the pundion, two eesar; so that at this price, a loaf for a pundion is equal to half a kab of flour; the kab is equal to twenty-four eggs; the loaf, therefore, to twelve eggs.

[4] Equal to two-ninths of a kab, or five and one-third eggs.

[5] Whosoever remains in the house of a leper time sufficient to eat half such a loaf [two and two-thirds of an egg], renders his clothes unclean, and must wash them.

[6] Whosoever eats of the size of one-fourth such loaf [one and one-third egg], renders himself unclean, and cannot partake of any thing consecrated till he has bathed.

in another town [without joining in the erub], whether he be a heathen or an Israelite, he renders the court unlawful [for the other inmates to carry or convey therein]. Such is the dictum of R. Meir. R. Jehudah saith, "he does not render it unlawful." R. José saith, "a heathen renders it unlawful, but an Israelite does not, as it is not the custom of an Israelite to return on the day of rest." R. Simeon saith, "Even though he has quitted his house, and is gone to take his Sabbath-rest with his daughter, in the same town, he does not render [the court] unlawful, since he has in thought renounced his habitation [for the time]."

§ 6. If a cistern be between two courts it is not lawful to draw water therefrom [on the Sabbath], unless there be a partition made ten hands high, either above [round the well] or below [within the water], or in the basin. R. Simeon ben Gamaliel saith, "Beth Shammai hold, [the partition must be made] below [within the water];" but Beth Hillel hold, "above [round the well]." R. Jehudah saith, "The partition is not more effectual than the wall which is between them [the two courts]."

§ 7. If a streamlet of water runs through a court, it is not lawful to draw water therefrom, unless there be a partition ten hands high, where it [the streamlet] flows in [to the court], and [another] where it flows out [again]. R. Jehudah saith, "The wall above it is to be considered a partition." R. Jehudah further said, "It so happened, that, in [the town of] Ebal, they drew water from a streamlet on the Sabbath, with the sanction of the elders;" but the sages replied, "[That was] because it did not hold the legal size [of a carmelith]."[7]

§ 8. If there be a balcony above the water[8] it is not lawful to draw water [therein] on the Sabbath, unless a partition be made ten hands high, either above or below the balcony. So, likewise, if there be two balconies, one above the other. Should a partition have been made for the upper, but not for the lower one, it is unlawful to draw water from either, unless they have been combined by erub.

§ 9. If a court be less than four amoth square, it is not lawful to pour any water therein on the Sabbath, unless there be made a sewer capable of holding two saah below the outlet, either outside of, or within, the court. If [however] it [the sewer] be outside, it must be vaulted [over]; whereas, inside, it needs not be vaulted [over].

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[7] Vide Introduction to Treatise Sabbath.

[8] With an aperture for drawing water.

§ 10. R. Eleazar ben Jacob saith, "A kennel which is vaulted [over, to the extent of] four amoth, in the public reshuth, it is lawful to pour water into on the Sabbath;" but the sages hold that, even though the court or the roof be one hundred amoth long, it is not lawful [to pour water direct] down the kennel; but the water may be poured out on the roof, so as to drop into the kennel. The entry [hall] may be added to the [court in computing the four amoth] mentioned in the preceding Mishna."[9]

§ 11. So, likewise, if there be two habitations facing each other [in one court], and the inmates of the one [habitation] have made a sewer,[10] but the inmates of the other have not [joined in making it], those who made the sewer are permitted [to throw water down it]; but those who made it not are prohibited [to throw water down it].[11]

CHAPTER IX.

§ 1. All the roofs of a town[1] [form] one reshuth, provided always there be not one roof, ten hands higher or ten hands lower [than the rest]. Such is the dictum of R. Meir; but the sages hold [that] every roof forms a separate reshuth. R. Simeon saith, "Roofs, as well as courts and wood-stores [inclosed places, form] one reshuth, for [the carrying and conveying of] all [such] utensils as were [actually] therein [when] the Sabbath-rest [began], but not for those utensils [which were] in the house [when] the Sabbath-rest [began]."

§ 2. If a large roof be next adjoining a small one, [the owners of] the large [roof] are permitted [to carry utensils thither from the house], but [the owners of] the small [roof] are prohibited [so to do]. If a large court opens into a small one, through a gap [or breach in the wall], [the inmates of] the large [court] are permitted [by means of erub to carry or convey through the breach], but [the inmates of] the small [court] are prohibited [so to do], because it [the smaller court] is considered as a door [entry] to the large [court]. If a court [through the fall of its walls] is laid open towards the public reshuth, whosoever brings any thing from a private reshuth into the court, or

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[9] Thereby to free the inmates from the necessity of making a sewer.

[10] Vide § 9 of this chapter.

[11] Unless they be joined by erub.

[1] In the East all roofs are flat.

from the court into a private reshuth, is guilty. Such is the dictum of R. Eleazar. The sages hold, "that [whoever brings any thing] from the court into the public reshuth, or from the public reshuth, is absolved; since [by the fall of its walls, and the consequent opening] the court is become like carmelith."

§ 3. A court, [the corner walls of which have fallen down on the Sabbath, so] that [it] has been laid open towards the public reshuth on two sides; and also a house [which by the fall of the corner wall is thus] laid open on two sides; or an entry, the beam and posts of which have been removed, it is permitted [to the inmates to carry or convey thence] on that [particular] Sabbath; but it is prohibited [so to do] for the future, [on any subsequent day of rest]. Such is the dictum of R. Jehudah; but R José saith, "If it were permitted on that [particular] Sabbath, it would also be permitted for the future; but if it is prohibited for the future [on any subsequent day of rest], it is also prohibited on that [particular] Sabbath."

§ 4. If an attic be built over two [adjoining] houses—likewise bridges, the avenues to which are open at both ends—it is lawful [to carry or convey] underneath on the Sabbath. Such is the dictum of R. Jehudah; but the sages prohibit it. Moreover, R. Jehudah further said, "It is lawful to combine, by [means of] erub, an alley that is open at both ends," but the sages prohibit it.

CHAPTER X.

§ 1. Whoever [on the Sabbath] finds tephilin [on the road], must [match them, and] bring them [into the town or village] in separate pairs, [one for the head, and one for the arm]. Rabbon Gamaliel saith, "He brings in two pair [at a time]. To what does this rule apply? To old [tephilin, such as have been already used], but [if they be] new he is absolved [needs not do so]. If he find them tied up in pairs, or all tied together, he must stay by them till dark [when Sabbath goes out], and then bring them in; but in [time of] danger [religious persecution], he [only] covers them up, and passes on."

§ 2. R. Simeon saith, "He must reach them to his neighbour [the one who happens to be next to him], who [reaches them] to his neighbour, [and so on, from hand to hand], until the outmost court [of the town or village]; so, likewise, his child, [if it be born on the field or road on the Sabbath], he must reach it to his neighbour, [the one who happens to be next to him] and he to his neighbour, [and so on from hand to hand], even though [it have to pass through] an hun-

dred [hands]." R. Jehudah saith, "In like manner, a man may pass a cask of wine [which he has found on the road on the Sabbath] to his neighbour, and he to his neighbour; [and so on from hand to hand], even beyond the techoom:" but the sages objected, "the cask cannot be conveyed further than its owners are entitled to go."

§ 3. If a man reads in a roll [of the law] on the threshold [of the house], and the roll slips out of his hand, he may draw it back again, [and pick it up]. If a man reads [in a roll of the law] on the roof [of the house], and the roll slips out of his hand, he must, if it has not rolled the distance of ten hands [into the public reshuth], draw it back again; but if it has reached [the distance] of ten hands [in the public reshuth], he must turn the writing over [downwards, to the wall, and leave it till nightfall]. R. Jehudah saith, "If the roll be but the breadth of a needle from the ground, a man is to roll it back again to himself." R. Simeon saith, "Even though it be completely on the ground a man is to roll it back to himself [and pick it up], for no precept respecting Sabbath-rest stands [good] before [the veneration due to] the sacred writing.

§ 4. On a ledge outside a window[1] it is permitted to place [brittle] vessels, and to remove them therefrom on the Sabbath. A man may stand in the private reshuth, and move [things that are] in the public reshuth; [or he may stand] in a public reshuth, and move [things that are] in the private reshuth; provided always, that he [the first-mentioned] move them not beyond four amoth.

§ 5. A man must not, standing in a private reshuth, make water in the public reshuth [on the Sabbath; nor must he, standing] in the public reshuth, make water in a private reshuth. In like manner, he must not [standing in one reshuth] spit [into another]. R. Jehudah saith, "He who [coughing] has brought up phlegm into his mouth, must not go four amoth before he expectorates."

§ 6. A man must not, standing in a private reshuth, drink in the public reshuth, [nor yet, standing] in the public reshuth, drink in a private reshuth, unless he place his head, and the greater part of his body, within the place in which he drinks. [Such is] likewise [the law] [with respect] to a vine press.[2] A man may catch [water drop-

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[1] Which projects into the public reshuth, and is within ten hands above the ground; as, beyond that height, the air does not form part of the public reshuth. (Vide Introduction to Treatise Sabbath.)

[2] This refers to the law of tithes. Wine may be drunk in the wine-press, but not out of it, before it has been tithed.

ping] from a spout on the roof, within ten hands from the ground; but from a projecting spout [pipe] he may drink in any manner [he pleases].

§ 7. A reservoir that is in the public reshuth, should its inclosure be ten hands high, it is lawful to draw water therefrom [on the Sabbath] through any aperture [window] that is above it. A dunghill in the public reshuth, which is ten hands high, it is lawful [on the Sabbath] to pour water on, through any aperture [window] above it.

§ 8. [If branches of] a tree droop, and cover the ground around it, so that the tips of its twigs be within three hands from the ground, it is lawful to move [things] beneath it [on the Sabbath]. Should its roots project three hands high out of the ground, it is not permitted to sit thereon. The shutters of a drying [bleaching] ground, or [such] thorn bushes [as are used to put] into gaps [breaches in the wall to fill them up], or reed mats, must not be used to close [avenues] therewith, unless they be [placed somewhat] above the ground.

§ 9. A man must not, standing in a private reshuth, unlock with a key [something] in the public reshuth, [nor must he, standing] in the public reshuth, unlock with a key something in a private reshuth, unless he has previously made a partition ten hands high [round the spot on which he stands]. Such is the dictum of R. Meir; but the sages objected "that it was the custom in the stall-feeders'[3] market, at Jerusalem, to lock up the shops, and place the key in the window [aperture] above the door."[4] R. José saith, "[This was done] in the wool-market."

§ 10. A loose bolt,[5] with a knob to it, is prohibited [to use on the Sabbath]. Such is the dictum of R. Eleazar: but R. José permits [its use]. R. Eleazar said, "It happened in the Synagogue at Tiberias that it was customary to use such [a bolt], until Rabbon Gamaliel and the elders came and permitted its use." But R. José replied, "[On the contrary], they abstained from its use [as unlawful], until Rabbon Gamaliel and the elders came and permitted [its use]."

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[3] Those who sold stalls for cattle.

[4] So that when the shop [a private reshuth] was to be opened, the owner stood in the public reshuth to unlock it, without any partition; which, consequently, is not necessary.

[5] The manner of fastening was by means of ropes, or leather thongs, to which loose bolts were fixed.

§ 11. A loose bolt, that [is fastened to a rope], and hangs down [towards the ground], they may [only use to] fasten up with, in the Temple, but not in the country ;[6] but a bolt that is fixed [into the building itself] is prohibited in either place. R. Jehudah saith, "A fixed bolt may be used in the Temple, and a loose bolt in the country."

§ 12. In the Temple, the lower hinge of a cupboard-door may be refitted [into its place on the Sabbath], but [this must] not [be done] in the country. R. Jehudah saith, "The upper hinge [may be refitted] in the Temple, and the lower one [in the country].

§ 13. They [priests who minister] may replace a plaster on a wound, [which plaster they had taken off to perform the service] in the Temple ; but [this must] not [be done] in the country. [To put] the first [plaster on a wound on the Sabbath] is in either place [alike] prohibited. They [Levites performing on musical instruments] may tie a string [of an instrument, which has burst in the middle, on the Sabbath], in the Temple; but [this must] not [be done] in the country. [To put] a new string [on the Sabbath] is in either place [alike] prohibited. They [the ministers] may remove a wart[7] [from an animal on the Sabbath] in the Temple, but [this must] not [be done] in the country; by [means of] an instrument, [it] is, in either place, [alike] prohibited [so to do].

§ 14. A priest [ministering], who hurts his finger, may bind it up with reeds in the Temple [on the Sabbath], but [this must] not [be done] in the country. To squeeze out the blood is, in either place, [alike] prohibited. They may strew salt on the stairs [of the altar, on the Sabbath], that they [ministering priests] slip not down ; also draw water from the well Gola, and from the large well, with the rolling wheel, on the Sabbath, and from the cold well[8] on festivals.

§ 15. [Should the carcass of] a dead reptile be found in the Temple [on the Sabbath], the priest moves it out with his belt, as the unclean thing must not remain [within the Temple]. Such is the dictum of R. Jochanan ben Beroka ; but R. Jehudah saith, "It must be removed with wooden pincers, that the uncleanness spread not further." From whence is it to be moved out? From the inner Temple, from the hall, and from the interspace between the hall and the altar. Such is the dictum of R. Simeon ben Nonos ; but R.

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[6] Any place other than the Temple at Jerusalem is styled the country.

[7] Which is a blemish to an animal intended for sacrifice. (Vide Lev. xxii. 22.)

[8] Three wells within the precincts of the Temple.

Eleazar saith, "Every place, [the entering of which by an unclean person], if intentionally, [exposes him] to be cut off from his people; and if inadvertently, to bring a sin-offering, it must be removed out from. In all other places [within the precincts of the Temple], it, [the reptile] is to be covered with a copper vessel [till after the day of rest, when it is removed]." R. Simeon saith, "In whatsoever the sages permitted, they only grant thee that [the right to do] which is thine own; inasmuch, as what they allow only could become unlawful through [their] enactments of the Sabbath-rest."

פסחים

XIV. TREATISE PESACHIM,

OR, OF THE PASSOVER; RELATING TO THE LAWS CONCERNING THE PASSOVER FESTIVAL, AND THE SACRIFICE OF THE PASCHAL LAMB ON THE FOURTEENTH OF THE MONTH NISSAN.

Introduction.

It treats more particularly of all matters relative to the removal of leaven from our houses, or places under our jurisdiction or control; it defines what constitutes leaven, and how to banish or annul it before or during the festival; what bitter herbs were to be eaten with the paschal sacrifice; laws relative to the proper observance of the festival, the middle days thereof, and of the 14th of Nissan; also, respecting the observance of the Second Passover, by those who could not observe it at its proper time (Num. ix.), and other laws incidentally mentioned, or directly relating to the subject.

CHAPTER I.

§ 1. On the evening of [previous to] the 14th of Nissan, it is necessary to make search for leaven by the light of a candle; it is not required to search places in which it is not usual to put leaven. Why then was it ordered that two rows [of barrels] must be searched? Because it treats there of a warehouse or wine-cellar, in which leaven is sometimes carried. Beth Shammai decide, "that search must be made between two rows of barrels over the whole surface of such a warehouse;" but Beth Hillel say, "It is

sufficient to search between the two external rows, which are also the highest."[1]

§ 2. It needs not be suspected that a weasel might [possibly] have dragged any leaven from one house or place to another;[2] for if so, the same suspicion will attach to a [possible] removal from one court, or even from one city to another, and [the search] would thus become an endless task.

§ 3. R. Jehudah says, "It is necessary to search on the evening before the 14th [of Nissan], or early on the morning of that day, or at the time [when all leaven must be removed];" but the sages say, "If no search has been made on the evening preceding the 14th, it must be done on that day: if omitted on that day, it must be done at the time appointed[3] [for the removal of leaven], and in case it was then also omitted, it must be done afterwards,[4] and whatever leaven remains, must be kept in a well guarded place, that no further search may become necessary."

§ 4. R. Meir says, "It is lawful to eat [leaven on the 14th] the whole of the first five hours,[5] and what remains must be burned at the commencement of the sixth hour:" but R. Jehudah says, "It is only permitted to eat [leaven] the first four hours; it must be abstained from during the whole of the fifth hour; and it must be burned at the commencement of the sixth hour."

§ 5. R. Jehudah also taught, "That formerly, two cakes of thanksgiving-offering which had become desecrated, were exposed on a bench or gallery [of the Temple]. Whilst they lay there, all the people did yet eat [leaven]: when one was removed, they abstained

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[1] This is variously explained; the plainest exposition seems to be the following:—supposing 100 barrels to be piled up one on the other, in a cellar or warehouse, in ten rows of ten barrels each; according to Beth Shammai, the front and top rows must be searched; but Beth Hillel consider it sufficient to search between the two external rows (i.e. those in a perpendicular position) in the first only.

[2] From a place that has not been searched to one that has.

[3] The word מועד is here rendered according to Rashi; others have explained it in its usual sense, namely, "festival."

[4] After the search has been made to serve for the consumption of the family, between that time and the period when all leaven must be burned, or otherwise removed.

[5] That is, Till eleven o'clock. To reduce the rabbinical hours to our modern computation of time, add six to the hours mentioned in the Mishna.

from eating, but did not burn it; when both were removed, all the people commenced burning [the leaven]." Rabbon Gamaliel says, "Non-consecrated things may be eaten during the first four hours; but heave-offering may yet be eaten during the fifth hour: both, however, must be burned at the commencement of the sixth hour."

§ 6. R. Hanina, the Sagan [chief or principal] of the priests, says, "The priests did never object to burn flesh which had become unclean in an inferior degree,[6] with other flesh which had become unclean in the first degree,[7] although the [legal] impurity of the first mentioned was thereby increased." R. Akivah added to this, and said, "The priests did never object to burn the oil of heave-offering, which had become unclean by being put by an unclean person, who [however] had bathed on that day, into [a metal] lamp which had come in contact with a dead body, although a higher degree of impurity had thus been added to its former impurity."

§ 7. R. Meir says, "We learn from their words, that it is lawful, on account of the Passover, to burn clean heave-offering [of leaven] with that which has become unclean;" but R. José said to him, "This is not a [true] inference;" R. Eleazar and R. Joshua agree, however, that it is necessary to burn each separately. Wherein do they differ? Concerning things whose uncleanliness is doubtful, and things which are certainly unclean; for R. Eleazar says, "Each of these must be burned separately;" but R. Joshua says, "They may be burned together."

CHAPTER II.

§ 1. As long as it is lawful for the priests to eat of the heave-offering,[1] [the Israelite] may give [non-consecrated articles of leaven] to his domestic or wild animals, or to fowls; he may also sell it to strangers,[2] or derive benefit from it in any other way; but when that time is passed, it is unlawful to derive any benefit whatever from it, not even to use it as fuel, or to light therewith an oven

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[6] That is, the second degree of impurity.

[7] This, and the following section, can only be properly understood by a knowledge of the laws laid down on this subject in Seder Taharot.

[1] This is according to the opinion of R. Gamaliel, mentioned above, chap. I. § 5.

[2] Wherever the word "strangers" is mentioned in this chapter, it refers to those who are not Israelites.

or stove.[3] R. Jehudah says, "The removal of leaven must be effected by its being burned:" but the sages say, "It must be crumbled into small particles, cast forth to the wind, or thrown into the sea."

§ 2. Leaven belonging to a stranger, which has been in existence during the Passover, may be used after that festival, but not when it belonged to an Israelite, because it is said (Exod. xiii. 7), "Neither shall there be any leaven seen in all thy quarters."

§ 3. When a stranger has lent money to an Israelite upon the security of leavened articles, they may be applied to use after the Passover; but when an Israelite has lent money to a stranger upon leavened articles, they may not be applied to use after the Passover; leaven that has been covered by fallen ruins, must be considered as banished and removed; Rabbon Simeon ben Gamaliel says, "Only then, when it is so much covered that a dog cannot drag it out."

§ 4. If any person should eat leavened heave-offering during the Passover through error, he shall pay the principal, and the fifth part in addition; but if he did it wilfully, he is free of the obligation of repayment, and of paying for the value of the wood[4] in case of the heave-offering being unclean.

§ 5. A person discharges his obligation[5] with the following articles on Passover:—with cakes made of wheat, barley, spelt, oats, and rye; also with דמאי [corn which it is doubtful whether it was tithed], with the first tithe, of which the heave-offering has been taken, and with the second tithe, and consecrated things which have been redeemed. Priests,—with the cake of the dough [חלה], and the heave-offering, but not with that which is yet mixed or untithed [טבל], nor with the first tithe of which the heave-offering has not been taken, nor with unredeemed second tithe, and consecrated things not ransomed; also, not with the cakes of thank-offering, and the thin cakes of the Nazarite's offering, if they had prepared them for their own use; but if for public sale, they may discharge their obligation therewith.

§ 6. The obligation of eating bitter herbs on the Passover, may be discharged with the following herbs: namely, with lettuce, wild

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[3] That is, when used to prepare food in. The word כירים signifies "open ovens" or ranges, and תנור "closed ovens."

[4] This will be understood by comparing chap. VI. of Treatise Terumoth, or of Heave-offerings.

[5] Of eating unleavened-bread on the first night of the Passover.

endive, and garden endive,[6] with חרחבינה,[7] and bitter coriander,[8] either fresh or in a dried state, but not if pickled, boiled, or cooked in any way: they may also be combined to the size of an olive, and the obligation is discharged if the stalks of them only had been used; and also when it is doubtful whether they were tithed, or are of the first tithe of which the heave-offering was taken, or of the second tithe, or of redeemed consecrated things.

§ 7. It is prohibited to soak bran on the Passover to feed fowls; but it is permitted to pour boiling water thereon; a woman may not soak the bran which she takes with her to the bath, but must use it in a dry state to rub her body therewith. A person may not masticate grains of wheat to put it [as a poultice] on his wound, because they will become leavened.

§ 8. It is unlawful to put flour in חרוסת,[9] or in mustard, but if it were done, it must be immediately eaten; but R. Meir prohibits it. The paschal sacrifice may not be boiled in any liquid, or juice of fruit; but it is permitted to moisten it [after it has been roasted], or to dip it [in any liquid when eaten]. Water which a baker uses [to cool his hands while kneading מצות unleavened-cakes] must be thrown away immediately, because it becomes leaven.

CHAPTER III.

§ 1. The law concerning the due observance of the Passover, will be transgressed by using the following articles: namely, Babylonian כותח,[1] Median beer [made of wheat or barley], Edomite vinegar,[2] Egyptian zeithum,[3] the dough of bran used by dyers, the dough used

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[6] Original, חמכה. According to De Pomis in "Zemach David," it is the *cardus marrubium;* others consider it to be the green tops of the horse-radish.

[7] A kind of nettle; *urtica*, according to Landau's Dictionary.

[8] Or, according to De Pomis, *lactuca agrestis*, or the wild lettuce.

[9] This is a mixture of vinegar, almonds, and spice, which the ancients used to dip their food in; flour was sometimes added to thicken it.

[1] This is explained to be a mixture of mouldy bread with milk and salt, used to dip food in.

[2] That is, vinegar made in the Idumean manner, by the fermentation of barley and wine.

[3] The name of a medicine of Egyptian origin, mentioned by Pliny (book xxii. c. 82), under the name of "zythum;" according to the Talmud, it was composed of equal parts of barley, salt, and wild saffron.

by cooks,[4] and the paste used by writers;[5] R. Eleazar says, also the paste used by women to adorn themselves with.[6] This is the general rule: whatever is composed of any kind of grain, can cause a transgression of the paschal laws; and they that are guilty of this, incur the penalty attached to the transgression of an admonitory precept,[7] but not that of being "utterly cut off" [כרת].

§ 2. If there be any dough in the holes or crevices of a kneading-trough:[8] if there is as much as the size of an olive in any one place, it must be forthwith removed, but if less than that quantity is together in one place, it may be considered as non-existing, being so inconsiderable; and thus it is in respect to pollutions.[9] But when the dough is cared for [when the owner wishes to use it], it forms a separation,[10] [and the trough is unpolluted], but when it is desired to leave the dough in the trough, it must be considered as forming an integral part of the trough;[11] a dull dough[12] may not be used, if one of the same quality and size can become leavened in the same time.

§ 3. How can the cake of the dough [חלה] be separated on the Passover when it has become unclean?[13] R. Eleazar says, "It is only to be named after it has been baked;" R. Jehudah, son of Beterah says, "This is not the leaven concerning which it is said, 'It shall not be seen nor found in thy house;'" it must, therefore, be separated, and left till the evening, without caring whether it becomes leaven or not.

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[4] To cover the pots to attract the impurities of the food when boiling; the amylos of the ancients.

[5] Or rather, by bookbinders to paste the sheets together so as to form a book.

[6] This paste was made of flour mixed with aromatics and other ingredients, and used as a cosmetic.

[7] That is, he shall be chastised with thirty-nine stripes, מלקות.

[8] To fasten its broken parts, or to stop up holes or crevices in the trough.

[9] By being touched by any creeping thing, טומאת שרץ.

[10] That is, a protection from pollution.

[11] This part applies more particularly to other times of the year, and not to the Passover exclusively.

[12] In the original, "a deaf dough," בצק החרש; or as others read it בצק החרס, a dough [like] a brick, i. e. a dough which does not soon exhibit any marks of rising, or which yields a dull sound when struck by the hand [like a deaf person who does not answer when spoken to]; according to the other derivation, when it is as hard as a brick.

[13] Since it may not be baked on the festival, nor be used thereon in any manner.

§ 4. Rabbon Gamaliel says, "Three women may knead dough on the Passover at one time, and bake it in the same oven, one after the other;" but the sages say, "Three women may occupy themselves with their dough, but in the following manner: one shall knead and another fashion the dough, whilst the third bakes;" R. Akivah says, "It is not the same with all women, wood, or ovens."[14] This is the rule: as soon as dough becomes inflated, let the woman plunge her hand in cold water.[15]

§ 5. Dough which begins to become leavened must be burned; but the person who eats it has not incurred the penalty [of excision]. Dough which falls in holes or rents must be burned, and whoever eats it has incurred the penalty of excision. When is a dough to be considered as commencing to become leavened? When it exhibits small rents standing apart in different directions, like the antennæ [horns or feelers] of locusts. A dough which falls in holes or rents is thus to be considered, when the rents cross each other: such is the dictum of R. Jehudah; but the sages say, "Whoever eats either incurs the penalty of excision." When is a dough to be considered as commencing to become leavened? When its surface has become pale, like [the face of] a person whose hair stands on end [through terror].

§ 6. When the 14th of Nissan happens on the Sabbath, all [leaven] must be removed *before* the Sabbath commences: such is the dictum of R. Meir; but the sages say it is to be done at the proper time; R. Eleazar ben Zadok says, "The heave-offering must be removed before the Sabbath, and non-consecrated things at the proper time.

§ 7. If a person went [on the 14th of Nissan] to slaughter his Passover-sacrifice, or to circumcise his son, or to eat the betrothing-meal at the house of his father-in-law, and remembers on the road that he has left leaven in his house: if he can return home and remove it, and then go back to execute any of the mentioned duties, he must do so, and remove it; but if not, he must mentally declare it as annulled. If his intention, on leaving home, was to aid persons to escape from armed foes, from inundation, robbers, or fire, or to save persons from under the ruins of fallen buildings, he may mentally annul the leaven; but if his intention was to obtain a sabbatical rest-

[14] For some women work quicker than others; some kinds of wood kindle sooner than others; and some ovens are sooner heated than others differently constructed.

[15] To hinder the dough from rising.

ing station for his private purposes,[16] he must immediately return to annul the leaven.

§ 8. Also, if a person on leaving Jerusalem, remembers having with him consecrated flesh: if he has gone beyond [the hill] Zophim, he may burn it where he is; but if not, he must return, and burn it before the sanctuary, with wood of the altar. What quantity [of flesh or leaven] makes it obligatory to return? R. Meir says, "When both are the size of an egg;" R. Jehudah says, "When of the size of an olive;" but the sages say, "Consecrated flesh when of the size of an olive, and leaven when of the size of an egg."

CHAPTER IV.

§ 1. In places where it is customary to work till noon on the day before Passover, work may be done; but not in places where it is not customary to work thereon. If a person should go from a place where the said custom prevails, to another place where it does not, or the reverse, he will be subject to the rigour of the custom, either of the place he came from, or of that he went to.[1] And it is always proper not to act differently from the established customs of a place, on account of the disputes to which such conduct may lead.

§ 2. Even so, when a person brings fruits of the sabbatical year, from a place where the same are no longer growing in the fields, to another place where they are yet growing, or the reverse, he is bound to remove them: R. Jehudah says, they might say to such a person, "Go thou also, and fetch for thyself similar fruit from the field."[2]

§ 3. In places where it is usual to sell small cattle [sheep, goats, &c.] to non-Israelites, it is lawful to do so, but not in places where it is not customary. Large cattle may not be sold to them at

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[16] By staying on the extreme limits of the תחום when the Sabbath commences, in order to obtain liberty to move 2000 amoth, or cubits, on every side of that station on the Sabbath. (See Treatise Erubin.)

[1] That is, he may not work at all. This prohibition, however, is limited to one whose intention is to return to his place; but if he came to settle permanently, he is considered, in this respect, the same as the persons of the place he intends to live in, and may work or not on the 14th, according as it may happen to be customary in that place.

[2] This Mishna cannot be understood without reference to chap. IX. § 5, of Treatise Shevingith.

all,[3] neither calves nor foals of asses, either sound or broken [legged]; R. Jehudah permits the sale of the latter, and Ben Beterah that of the horse.

§ 4. In places where it is usual to eat roasted meat on the night of the Passover, it may be eaten, but not in places where this custom does not exist. In places where it is usual to burn a light on the night of the day of atonement, it may be done; but not in places where this custom does not exist. The synagogues and schools [for the study of the law] may, however, be lighted; as also dark alleys, and near sick people.

§ 5. In places where it is usual to work on the 9th of Ab, work may be done; but not where it is not customary. The learned [in the Holy Law] however, must every where abstain from work thereon; Rabbon Simeon, son of Gamaliel, says, "Every one ought, in this respect, to consider himself as a learned man;" the sages say, "It was customary, in the land of Judah, to work till noon on the day preceding the Passover; but in Palestine they did not work at all [on that day];" and with respect to the evening which precedes it, Beth Shammai prohibit to work thereon,[4] but Beth Hillel allow it till [the morrow's] sunrise.

§ 6. R. Meir says, "Every occupation which had been commenced prior to the 14th, may be finished on that day; but no new work may be commenced, although it can be finished thereon. The sages are of opinion that the three following handicrafts may exercise their calling on the day before the Passover, namely, tailors, barbers, and laundresses; Rabbi José, son of Jehudah, says, also the strap-makers.[5]

§ 7. Fowls may, on the 14th, be placed in hatching-coops; a brooding-hen which had run away [from her eggs], may be replaced on them [during the middle-days], and if the hen have died another may be put on the eggs to replace her. It is lawful to remove on the 14th, the stable-dung from between the feet of cattle; but it may only be removed to one side [not entirely removed], during the middle-days. It is also permitted to carry on the 14th, to and from

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[3] The reason is, lest the heathens may put the animals to work on the Sabbath. This restriction has been subsequently abolished, as appears from Shulchan Aruch, vol. II. chap. 151, § 4.

[4] This refers alone to the Galileans, and others who were accustomed not to work at all on the 14th of Nissan.

[5] Namely, those who make leathern straps for sandals, and mend them.

the houses of handicraftsmen, vessels and other articles, although they are not wanted for use during the festival.

§ 8. The inhabitants of Jericho used to do six things; three of which were prohibited to them, and three were not. The following are those not prohibited: they used to graft palm-trees the whole day of the 14th, they used to read the "Shemang" with hasty involution,[6] and they used to cut down and make heaps of the new corn before the "omer" was offered,—these were not prohibited to them; but the following were: namely, they used to allow themselves the use of plants growing on or near consecrated trees,[7] and also to eat on the Sabbath fruit which had dropt off the trees,[8] and they suffered herbs to stand in the field as peah;[9] all which the sages prohibited to them.

§ 9. The following six things were done by King Hezekiah; three of which were approved of, and three were disapproved:—he caused the bones of his father[10] to be transported on a litter or hurdle of cords [or ropes],[11] and this was approved of; he caused the brazen-serpent to be broken to pieces,[12] and this also was approved of; he secreted the book of medecine,[13] and it was approved. The following

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[6] The solutions given in the Talmud and by commentators of this strange expression of the original וכורכין את שמע are various: according to some, the fault of the inhabitants of Jericho, consisted in not dwelling sufficiently on the last syllable of the word אחד, before commencing the reading of ואהבת and the following verses. According to others, they made this necessary pause, but did not say the verse ברוך שם כבוד מלכותו לעולם ועד, before commencing ואהבת, thus wrapping or involving the verses together, which are prescribed to be read with a pause between the first verse of the Shemang and the subsequent ones.

[7] The original expression נמזיות, has also given cause to much interpretation: some understand by it the parasitical plants growing on a tree, and which derive their nourishment and growth from the tree itself (*e. g.* the mistletoe on the apple-trees or oaks). Others read here נוזיות, and explain it, that they pruned the consecrated trees, and used the wood.

[8] Fruit which has dropt off a tree on the Sabbath may not be used thereon.

[9] In order that the poor may not be led into the error of eating it untithed טבל, thinking it to be peah. (See Treatise שביעית.)

[10] The wicked Ahaz.

[11] As a mark of dishonour and expiation; also to shew the people his abhorrence of his father's wicked career. (See 2 Chron. xxviii. 27.)

[12] As mentioned 2 Kings xviii. 4: "And broke to pieces the brazen-serpent that Moses had made, because the children of Israel burned incense to it."

[13] Because, according to some commentators, the Israelites trusted to it in case of illness, and did not pray for help to God. Maimonides rejects this interpretation, and says, "How could they thus attribute to Hezekiah a motive

are the three things of which they disapproved:—he cut off [the gold] from the gates of the Temple, and sent it to the king of Assyria;[14] he stopped up the water-course of Gihon;[15] and made the month of Nissan intercalary:[16] all of which were disapproved of.

CHAPTER V.

§ 1. The daily offering was slaughtered half an hour after the eighth hour, and sacrificed half an hour after the ninth hour; but on the day before Passover, whether that happened to be on the week or a Sabbath-day, it was slaughtered half an hour after the seventh hour, and sacrificed half an hour after the eighth hour. When the day before Passover happened on Friday, it was slaughtered half an hour after the sixth hour, sacrificed half an hour after the seventh hour, and the Passover sacrifice after it.

§ 2. When the Passover sacrifice had not been sacrificed as such,[1] or that its blood has not been received as such, or as such been brought to the altar and sprinkled, or that one sacrificial act had been done to it as a Passover sacrifice, and another not as such, or when the reverse of this has taken place,—it will not be valid. How is it to be understood doing one act as a paschal sacrifice, and another not as such? It is when at first some sacrificial act was done to it

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that even the lowest capacity would be ashamed of, and impute folly to the sages of his time who approved of it. The same might be said to a hungry man about to take food to allay his craving; were any to say, 'He ought to trust to God, who can aid him without this:' we would say to such, 'Fools that ye are! Even as we thank God when we eat, that he caused us to find what will allay our natural want, and eat it thankfully: thus also we ought to thank him that he gave us wisdom to find out a cure for our bodily ailments, and use it accordingly.' It is, indeed, a waste of time to argue against so obvious an absurdity, if it were not that the above opinion had been publicly taught. The reason, however, why King Hezekiah secreted this book of medicine was, because it was therein pretended to cure diseases by means of astrological spells, talismans, and other vain and superstitious means, which might lead the people to ignorance and idolatry."

[14] See 2 Kings xviii. 16. [15] See 2 Chron. xxxii. 30. [16] 2 Chron. xxx. 2.

[1] It is necessary to observe, for the proper understanding of this Mishna, that it is laid down in Treatise זבחים [of Sacrifices], that if any of four sacrificial acts had not been done with the express intention of doing it for that particular sacrifice, it would become inefficacious. These acts are: to receive the blood in the proper vessel; to bring it to the altar; to sprinkle it; and to slaughter the sacrifice with the intention of applying it to the particular sacrifice intended.

as a paschal sacrifice, and another act, subsequently, as a peace-offering; and the reverse is, when at first some sacrificial act had been done to it as a peace-offering, and subsequently, as a paschal-offering.

§ 3. If it had been slaughtered for those who [according to law] may not eat thereof, or for any that do not belong to the persons numbered to eat it, or for the uncircumcised, or for the unclean,—it will not be valid; but if it had been slaughtered for those that may eat thereof, and for those that may not, or for those that are numbered to eat it, and also for those that are not, or for circumcised and also for uncircumcised, or for the unclean and clean,—it will be valid. If it was slaughtered before the hour of noon it is not valid, because it is written (Lev. xxiii. 5), "Between the evenings." If it had been slaughtered before the continual burnt-offering [of the evening] was brought, it is valid; provided some one had been stirring the blood until that of the continual burnt-offering had been sprinkled, but if that had already been done, the paschal sacrifice is valid.

§ 4. If when the Passover sacrifice is offered [any one of those that are appointed to eat it] should yet have leaven in his possession, he will have transgressed a negative precept;[2] R. Jehudah says, "This is equally applicable to the continual burnt-offering [of that evening];" R. Simeon says, "When the paschal sacrifice was slaughtered as such, on the 14th, with leaven, this guilt would be incurred, but not if the paschal sacrifice had not been offered as such." For the other sacrifices, however, whether they were brought under their proper denominations or not, no guilt is incurred. When thus offered during the festival [of Passover] no guilt is incurred, if the paschal sacrifice had been offered as such: but it is incurred if it had been offered under any other name. With respect to other sacrifices [under the same circumstances offered during the Passover], guilt is incurred, whether they were offered under their proper denomination or not, excepting in case of the sin-offering that was not slaughtered as such.

§ 5. The Passover sacrifice was slaughtered for three successive bands or divisions of people, because it is said (Exod. xii. 6), "The whole *assembly* of the *congregation* of Israel shall slaughter it," [i. e. three sets according to the expressions] *assembly*, *congregation*, and

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[2] Namely, that expressed Exod. xxiii. 18.

Israel. The first division entered, until the court of the Temple was filled, the doors of the court were then closed, and *Tekiah Teruah* and *Tekiah* were sounded. The priests then placed themselves in double rows, holding each a bowl of silver or gold in his hand, namely, one row held silver bowls, and another gold ones, but not mixed. These bowls had no stands underneath, that the priests might not put them down, and the blood become coagulated.

§ 6. The Israelite slaughtered, and the priest received the blood and gave it to another [priest], who passed it further to others, each receiving a full bowl, and [at the same time] returning an empty one; the priest nearest to the altar, poured it out in one jet at the base of the altar.

§ 7. The first band then went out, and the second entered; when that went out, the third entered; even as the first, so did the second and third divisions. The Hallel was also read: if they had finished it, they re-commenced it, and might even say it for the third time, although it never happened that there was occasion to say it thrice; R. Jehudah says, "It never happened that the third division read as far as [3] אהבתי כי ישמע יי, because they were but few in number."

§ 8. The same things that were done on week days, were also done on the Sabbath, excepting that the priests used thereon to wash the court, against the compact of the sages.[4] R. Jehudah says, "a cup was filled with the mixed blood, which was poured out in one jet on the altar;" but the sages would not admit that such was the case.

§ 9. In what manner was the paschal sacrifice suspended, and its skin removed? Iron hooks were affixed to the walls and pillars, on which the sacrifice was suspended, and its skin taken off; those who could not find a place to do it in this manner, used thin smooth pieces of wood, provided there for the purpose, on which the paschal sacrifice was suspended between the shoulders of two persons, and its skin taken off. R. Eleazar says, when the 14th happened on the

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[3] Psalm cxvi.

[4] This has been explained in the Talmud and commentators of the Mishna as being effected by them in the following *indirect* manner:—there was a canal filled with water flowing through the court of the temple; this the priests caused to overflow by stopping up the vent or outlet thereof, and afterwards they opened and unstopped it again, when in its overflow it had washed the blood, &c. off the marble floor, and carried it thus off out of the temple. This they did against the consent of the sages, because no other work but that strictly necessary for the sacrifices was allowed to be done in the temple on the Sabbath.

Sabbath day,[5] one person used to place his [left] hand on the right shoulder of the other, and thus they suspended the sacrifice [on their arms], and took off its skin with their right hands.

§ 10. When it had been opened, and the pieces removed, which were to be sacrificed on the altar,[6] they were placed on a large dish, and offered with incense on the altar; when the first band had gone out [on the Sabbath] they remained on the temple mountain; the second in the open place between the ramparts[7] [חיל]; the third division remained in its place; when it became dark, they [all] went out to roast their paschal sacrifices.

CHAPTER VI.

§ 1. The following acts necessary for the sacrifice of the paschal offering, supersede the command of abstaining from work on the Sabbath, namely, the slaughtering thereof, the sprinkling of its blood, the removal of its entrails, and the burning of them with incense; but the roasting of it, as also the washing of its entrails, do not supersede the Sabbath. To carry and bring it beyond the Sabbatical limits, or to remove a tetter [or spreading eruption] thereon, are acts which do not supersede the Sabbath. R. Eleazar says they do supersede it.

§ 2. For, said R. Eleazar, this is surely a logical sequence—if slaughtering an animal which is prohibited on the Sabbath on account of מלאכה[1] is allowed in this instance [of the passover], and does supersede the Sabbath; does it not follow that these,[2] which are only acts disallowed on account of שבות[3] should also be permitted? R. Joshua answered and said, "The laws concerning the festival shall prove the contrary; for many things prohibited on the Sabbath, as מלאכה, are nevertheless permitted on the festival:[4] whilst those which

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[5] On which it is not lawful to use these sticks.

[6] See Leviticus iii. *passim*.

[7] This was the open space between the walls of the court of women, and the סורג, or trellis work in the Temple.—See Treatise Middoth, c. II. § 3.

[1] It is essential to bear in mind here the difference between מלאכה and שבות, as all the arguments pro and con turn on that difference. By the first expression is understood all *work* which is prohibited on the Sabbath, by direct authority of the Holy Law; and by the second, the laws which the Rabbins have instituted for the better preservation of Sabbatical *rest*.—See farther, Treatise Sabbath.

[2] Namely, the acts mentioned in the preceding section.

[3] See note 1.

[4] Such as cooking, lighting a fire, splitting wood, &c.

are prohibited on account of infringement of Sabbatical rest [שבות] are also prohibited on the festival."[5] R. Eleazar replied, "How is this, Joshua? What sort of proof is it to infer from purely voluntary acts[6] to one which is enjoined by the express command of the Holy Law?" Then R. Akivah answered, "The sprinkling[7] shall prove it; for that also is an express law, and is not otherwise prohibited on the Sabbath, than on account of שבות, it does not, however, supersede the Sabbath; do not, therefore, wonder that these, which also are express commands of the law, and are prohibited on the Sabbath, only on account of שבות, should also not supersede the Sabbath." Then R. Eleazar replied, "I also draw the same conclusion with respect to the sprinkling,[8] and say, if slaughtering, which as מלאכה, or work prohibited by the Holy Law to be done on the Sabbath, is here allowed to supersede that command,[9] does it not follow that the sprinkling of an impure person, which is only prohibited on account of שבות should also be prohibited thereon?" But R. Akivah replied, "Rather conclude the reverse, for if the sprinkling, which is only prohibited on account of שבות does nevertheless not supersede the Sabbath, does it not follow that slaughtering, which is prohibited, as מלאכה should also [*a fortiori*] *not* supersede the Sabbath?" Then R. Eleazar said to him, "Akivah! thou wouldst thus annul that which is written in the Holy Law,[10] 'between the evenings at its appointed season,' whether that be a week or Sabbath day." R. Akivah then said, "My honoured teacher! pray, adduce a text of the law which prescribes a particular and appointed time for these acts,[11] even as it does in respect to the slaughtering of the paschal sacrifice." The following rule did R. Akivah [therefore[12]] lay down—every work

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[5] Such as the prohibition of moving from one תחום into another, excepting by means of Erub, as mentioned in Treatise ביצה, which prohibition is of Rabbinical origin.

[6] The cooking of food on the festival.

[7] Of a person who had contracted legal pollution by contact with a dead body, whose seventh day, when he was to be sprinkled for his purification happened on Sabbath the 14th of Nissan, and who could not eat of the passover sacrifice before he had been thus rendered clean.

[8] That is, I dispute, by the same mode of argument and syllogism, your inference, and say, that this sprinkling *ought* to supersede the Sabbatical command in respect to this work, in order that the unclean person may be purified by means of the sprinkling, to enable him to partake of the paschal sacrifice.

[9] For it is agreed that the slaughtering of the paschal sacrifice, if the 14th happen on the Sabbath, is a lawful act.

[10] See Numbers xii.

[11] Mentioned § 1. of this chapter.

[12] Since there is no command which prescribes a fixed time, either for the

[מלאכה] done in respect to the paschal sacrifice, which could or might be done to it, previous to the Sabbath, does not supersede the Sabbatical laws, but as the slaughtering of the paschal sacrifice could not have been done on any preceding day, it does supersede the Sabbath.

§ 3. When is it allowed to bring a festive offering [in addition] to the paschal sacrifice? When it [the paschal offering] is sacrificed on a week-day: when those that offer it are in a state of legal cleanliness, and when it is insufficient for the number of those that are appointed to eat it. But when it is sacrificed on a Sabbath, when it is sufficient for the persons appointed to eat it, or when these are in a state of legal defilement,[13] no festive offering may be brought in addition to the paschal sacrifice.

§ 4. The festive offering might be brought of the flock, of cattle, lambs, or goats, and might be brought either of male or female [cattle]; it might also be eaten during two days and one night.

§ 5. When a person has brought on the Sabbath a paschal sacrifice not as such, he is bound to bring a sin-offering in expiation. If he did slaughter other sacrifices as a passover-offering, if they are of a nature so as not to be a proper paschal sacrifice,[14] he is guilty;[15] but if they are proper for that purpose, R. Eleazar declares him guilty, but R. Joshua absolves him.[16] For thus R. Eleazar argues, "If a person, when he has changed the name of the paschal sacrifice, which sacrifice he may slaughter on the Sabbath, is deemed to be guilty; does it not follow that when he had changed the names of other sacrifices which are *already* prohibited to be offered thereon as such, that he must *a fortiori*, be considered guilty?" To this R. Joshua answered, "You cannot apply what is affirmed in respect to the sacrifice, when it was changed to that which it is *un*lawful to offer on the Sabbath, to other sacrifices where the name has been changed to what *is* lawful." R. Eleazar replied, "The offerings brought for the whole congregation [of Israel] shall prove [my assertion,] for it is

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cases mentioned in the preceding § or for the sprinkling of the defiled person, the talmudical decision is therefore like R. Akivah's. Compare c. XIX. § 1. of Treatise שבת; c. IV. § 8. of Treatise Rosh Ashana; and c. XI. of Treatise מנחות.

[13] This may be done under certain circumstances enumerated in the next chapter, § 6.

[14] If, for instance, the sacrifice consisted of a calf, ox, or female of any kind of cattle; because the Holy Law orders the paschal sacrifice to be of a male lamb or kid of one year old.

[15] And is obliged to bring a sin-offering as expiation.

[16] From bringing the said offering.

lawful to offer them on the Sabbath under their proper name; yet whoever brings other offerings under their denomination is declared to be guilty." Then R. Joshua answered, "You cannot apply what is affirmed in respect to the offerings of the whole congregation which have a determinate number, to the paschal sacrifice which has no determinate number." R. Meir said, "He also who offers on the Sabbath other offerings under the name of those of the congregation is absolved."

§ 6. If a person slaughtered the paschal sacrifice for those who may not eat thereof, or for persons who are not numbered and appointed to eat it, and for uncircumcised or unclean persons, he is guilty; but if he had slaughtered it for those who may, and also for those who may not eat thereof; for those who are numbered to eat, and for those who are not; or for circumcised as well as for the uncircumcised; or for clean as also for unclean persons, he is absolved. If he has slaughtered it, and a blemish was found, he is guilty;[17] but if, after being slaughtered, it was found to be טריפה [prohibited to be eaten on account of inward blemishes], he is not guilty. If, after slaughtering it he became acquainted that the owners had withdrawn themselves from it, or had died, or become polluted, he is absolved, because when he slaughtered it, it was under lawful circumstances.

CHAPTER VII.

§ 1. How must the paschal sacrifice be roasted? A spit made of the wood of the pomegranate-tree is to be taken and put in at the mouth [of the lamb or kid] and brought out again at the vent thereof; its legs and entrails are to be placed inside, according to R. José the Galilean; but R. Akivah says, "This would be a kind of boiling, therefore they ought to be suspended on the outside [of the lamb]."

§ 2. The paschal sacrifice may not be roasted on an iron roasting spit, nor on a gridiron [אסכלא]. R. Zadok relates that R. Gamaliel said once to his bondsman Tabbi, "Go and roast for us the paschal sacrifice on a gridiron." If the roasted lamb had in any part touched the earthenware oven on which it was roasted, that part must be

[17] For as it is an express command of the Holy Law that the paschal sacrifice should be "perfect and without blemish," he ought to have had it examined previously. This, of course, relates to external blemishes.

pared off. If the fat which drips therefrom had fallen on the oven, and had again fallen on the lamb, the part so touched must also be cut out; but if the dripping fell on [hot] fine flour, a handful [of the flour] must be taken [and burned].

§ 3. If the paschal sacrifice has been anointed [or basted] with consecrated oil of heave-offering, and the company appointed to eat it consists of priests, they may eat it; but if of Israelites, they must wash it off the lamb, if yet raw; or should it have been already roasted, they must pare off the outward skin. If it had been anointed with oil of the second tithe, its value may not be charged to the company in money, because it is not lawful to redeem and sell it in Jerusalem.[1]

§ 4. Five kinds of sacrifices may be brought, even if those who offer them should be in a state of [legal] pollution; but they may not be eaten in that state; namely, the "Omer," the two loaves,[2] the shew-bread,[3] the peace-offerings of the congregation, and the he-goats, offered on the feast of the New Moon; but the paschal offerings, which were sacrificed in a state of pollution, may be eaten in that state, because the primary intention [of the command of the law] was, that they should be eaten.

§ 5. If the flesh of the paschal offering had contracted a legal pollution, and the fat thereof remains [unpolluted] its blood may not be sprinkled on the altar: but if the fat had become polluted, and the flesh remains [unpolluted], the blood may be sprinkled, although this is not the case with respect to other consecrated sacrifices [under similar circumstances]; for although the flesh [of these] had contracted pollution, and the fat remains unpolluted, their blood may be sprinkled [on the altar].

§ 6. When the whole or the greater part of the congregation had contracted [legal] pollution, or that the priests were in a state of [legal] pollution—but the congregation was clean—it may be brought in this state of pollution; but if the minority only of the congregation had contracted pollution, the majority that are clean shall sacrifice the first passover at its proper time, and the unclean [minority] shall sacrifice a second passover [on the 14th of the following month].

§ 7. If, after the blood of a paschal sacrifice had been sprinkled on the altar, it became known that it was unclean, the plate or frontlet of gold [of the high priest[4]] expiates [the sin];[5] but if the body of

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[1] Where alone the paschal sacrifice might be lawfully brought and eaten.

[2] Offered on the feast of weeks. [3] Offered on the Sabbath.

[4] See Exodus xviii. 36—38.

[5] And it is not necessary to bring a second paschal offering on the 14th of Iyar.

the paschal sacrifice had been polluted, the golden plate does not expiate;[6] because it is a maxim, that the golden plate expiates the paschal sacrifice and that of the Nazarite, when the blood of these had been polluted; but it does not expiate when the body of the sacrifice had become polluted. It does, however, expiate, for [the so called] pollution of the abyss or ground.[7]

§ 8. If the whole or greater part of the paschal offering had become polluted, it must be burned before the sanctuary with wood used for the altar: if the lesser part thereof had become polluted, or, that some part had remained [on the morning of the 15th] they must burn it in their own courts, or on their roofs, with their own wood; avaricious persons, however, used to burn it before the sanctuary, to avail themselves of the wood used for the altar.

§ 9. When a slaughtered passover sacrifice has been carried [beyond the walls of Jerusalem] or has become polluted, it must be immediately burned. If the owners thereof have contracted pollution or died, it must be left till its form has passed away,[8] and must be burned on the 16th of Nissan.[9] R. Johanan ben Berokah says, "That also must be burned immediately, because there are none to eat it."

§ 10. The bones, nerves, and other remaining parts must be burned on the 16th; but if that should be a Sabbath, they must be burned on the 17th, because the burning of these does not supersede the laws of the Sabbath nor those of the festival.

§ 11. Every part usually eaten of a full grown ox, may be eaten of the tender passover kid or lamb; such as the sinews or tendons over the joints. Whoever breaks any bones of the clean passover lamb, incurs the penalty of forty stripes, but the person who should leave a part of the paschal lamb over night, or who breaks a bone of an unclean paschal sacrifice, does not incur that penalty.

§ 12. If part of a member reaches or extends outside, it must be cut till it [the knife] reaches the bone, then the flesh is to be removed

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[6] And an offering must be again brought on the second passover.

[7] By this term the Mishna and Talmud express the pollution contracted by passing over ground containing a dead body, without the person passing being then aware of the fact.

[8] Rasbi and Bartenora explain this pbrase thus:—"It is to be left over-night so as to become נותר, or a paschal sacrifice which has remained over-night uneaten, and which must be burned, according to the command of the Holy Law." (Exodus xii. 10.)

[9] According to Maimonides, the sacrifice is to be left till it becomes decomposed and putrid.

inwardly, till the joint is reached, when it may be there cut off [and the bone must be cast away]. With regard to other sacrifices [the bones of which might be lawfully broken], the protruding part must be cut off with a chopping knife; if it extend from the אגף [door-wing or lobby[10]], it must be considered as inward; if it protrude further than this, it is to be considered as outward [and must be cut off]. The openings in a wall, and the thickness of a wall, may be considered as inward.

§ 13. When two companies eat their paschal sacrifice in one house [room], each turning their faces in a different direction while eating it,[11] and the warming pot or kettle [containing water to mix with the wine[12]] is in the middle between the two companies, the waiter or servant [שמש] must close his mouth [i. e. not eat] while he waits on the other company to pour out wine for them; then he must turn his face towards the company he eats with, and he must not eat till he has rejoined his own company.[13] It is, however, permitted to a bride to avert her face from the company while eating the paschal sacrifice.

CHAPTER VIII.

§ 1. When a paschal sacrifice had been slaughtered for a woman living in her husband's house, by her husband, and another by her father [also reckoning on her],[1] she must eat of that of her husband. If she went to pass the first festival after her marriage at her father's house, and her father and husband have each slaughtered a paschal sacrifice for her, she may eat it at either place she prefers. When several guardians of an orphan have slaughtered paschal sacrifices for him, the orphan may go and eat it at the house he prefers. A slave belonging to two masters may not eat of the sacrifice of both masters.

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[10] The first is the literal translation of the word אגף, mentioned in the original, which Rashi explains to be the place over which the door swings, i. e. the area contained on the segment of the circle it describes in swinging outwards, is yet considered as belonging to the room. According to Maimonides, אגף is the space between the inner and outer door of a room; i. e. a kind of lobby or entry.

[11] Of the same paschal sacrifice.

[12] Anciently water used to be placed near the table, as the wine was considered too strong to be drunk unmixed.

[13] No one may eat of the paschal offering in two places, or with two separate companies.

[1] To form one of the persons "appointed and numbered" to eat it.

One who is partly a slave and partly free, may not eat of the paschal sacrifice of his master.

§ 2. If a person order his slave to go and slaughter for him the paschal sacrifice, and the slave go and slaughter a kid or a lamb, he may eat it; if he slaughter a kid and a lamb, he may only eat that which has been slaughtered first. How is he to act when he has forgotten the [exact words] of the order of his master? He must kill a lamb and a kid, and say [at the time of the killing and sprinkling of the blood], if my master said [I should take] "a kid," then be the kid for him, and the lamb for me; but if he said "a lamb," then be the kid for me, and the lamb for him. If the master also had forgotten the precise terms of the order he gave, both animals must be burned, and neither master nor slave is bound to bring a second paschal sacrifice.

§ 3. If a person say to his sons, "I slaughter the paschal sacrifice for whichever of you shall arrive first in Jerusalem," then the first of them whose head and greatest part of his body has [first] entered [the city gate] has thereby acquired a right to his own share, and acquires the same for his brethren, who were also invited. As many people may partake of a paschal sacrifice as can obtain therefrom the quantity of meat of the size of an olive. Those that were numbered to eat it may withdraw [from the company] before the paschal sacrifice is slaughtered. R. Simeon says, "[They may do so], until the blood thereof is sprinkled."

§ 4. When a person has appointed others to partake with him of his share of the paschal sacrifice, his company are at liberty to give him his share to eat it separately with his own guests; and they may eat their own share [apart from him and his guests].

§ 5. A person subject to a running issue, who has twice in the same day experienced that issue,[2] and whose seventh day happened on the 14th of Nissan, may have the paschal sacrifice slaughtered for him thereon; but if he has experienced it thrice [in the same day], it may be slaughtered for him only in case his eighth day should happen [on the 14th of Nissan]. For a woman who has menstruated a day beyond her regular period, it may be slaughtered on her second day,[3] and when she has done so for two consecutive days, after her regular

[2] Such a person is unclean for seven days, without being bound to bring a sacrifice; but if he had experienced it three times in the same day, he is not considered clean before he has sacrificed.

[3] This can only be properly understood on reference to Treatise Niddah.

period, it may be slaughtered for her on her third day; but for a woman subject to a flow of menses [three days beyond her regular period], it may be slaughtered on her eighth day only.

§ 6. For an אונן [a mourner who has lost on the 14th of Nissan a relative for whom he is obliged to mourn]; for a person employed in digging out of a heap of fallen ruins [persons therein overwhelmed[4]]; for a prisoner who had a promise of being released;[5] and for aged and sick persons it is lawful to slaughter a paschal sacrifice, while they can eat thereof the minimum quantity of meat the size of an olive. But it may not be slaughtered for either on their own account alone, because they may cause the paschal offering to become desecrated and useless;[6] therefore, when either of these becomes disqualified to eat it, he needs not bring a second Passover sacrifice: except the person who has dug out [a dead body] from under the ruins, since such a one is unclean from the very outset.

§ 7. A paschal sacrifice may not be slaughtered for a single individual only, according to the opinion of R. Jehudah: but R. José allows it. It may not be slaughtered even for a party of a hundred individuals, if each of them cannot eat thereof the minimum quantity of the size of an olive. Neither may a company to eat it be formed of women, with slaves and minors.

§ 8. An אונן may eat of the paschal sacrifice at even, after he has bathed himself, but not of other holy [sacrifices]; but one who has only received the information of the decease of a near relative, or one who has the bones of a deceased person gathered for him, may eat of other holy sacrifices, after he has bathed himself.[7] A heathen proselyte, who was circumcised on the day before the Passover festival, may, according to Beth Shammai, "bathe himself, and eat in the evening of the paschal sacrifice." But Beth Hillel say, "One

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[4] When it is unknown whether they are alive or not, in the latter case the person who digs them out contracts pollution.

[5] In time to eat of the paschal sacrifice.

[6] The mourner, through grief which may prevent his eating any thing. The person who digs to deliver the overwhelmed from the fallen ruins, in case any dead body is found. The prisoner, lest he be detained in the [heathen] prison; and the aged and sick, lest a sudden increase of illness or weakness might happen to them, so as to prevent their eating the paschal sacrifice.

[7] Since the prohibitions in these cases are only of Rabbinical origin, they do not prevent the eating of the paschal sacrifice—a direct command of the Holy Law, the neglect of which is punished with excision [כרת].

who has just parted from the uncircumcised must be considered like one who has just parted from the grave."[8]

CHAPTER IX.

§ 1. Persons who, in consequence of being [legally] unclean, or on a distant journey, did not observe the first passover, must observe the second. They also who, through error or compulsory force, have been prevented observing the first, must observe the second passover. Then why does the text (Numb. ix. 10) particularly mention "the unclean person, or he who is on a distant journey"? in order to teach us that in case of neglect of the observance of the second passover by them, they only do not incur the penalty of utter excision כרת, but others do incur it.

§ 2. What must be considered a *distant journey?* According to R. Akivah, it is from Moodaim [מודעים],[1] and beyond, and from all places around Jerusalem, situated at the same distance. R. Eleazar says, "Any distance beyond the outside of the threshold of the court of the Temple, must be considered as comprehended under that term." R. José says, "It was to denote this, that it is directed that a dot must be placed over the ה in the word רחוקה [signifying 'distant'], to indicate that it is not necessary that a person should actually be on a distant road, but that he is considered as distant while he has not passed beyond the threshold of the court of the Temple."

§ 3. What is the difference between the first and second Passover? They differ, that in respect to the first mentioned, nothing leavened may be seen nor found in the house; while on the second, leavened and unleavened may be had together in the house [whilst the sacrifice is eaten]. By the eating of the first mentioned, it is necessary

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[8] And, therefore, this proselyte may not eat of the paschal lamb on that evening, because one who has just left a grave or dead body, becomes unclean for seven days, and requires the prescribed sprinklings on the third and seventh day of his purification, as mentioned in Leviticus.

[1] This is the place mentioned so often in Josephus, and in the history of the Maccabees, under the name of Modain. Its distance from Jerusalem was stated to have been fifteen miles, מילין; which it is calculated may be walked over by a person of ordinary powers, in the space between the rising of the sun, and commencement of the evening [the period during which the paschal sacrifice might be slaughtered], in the months of Nissan and Tishri, or during the period of the vernal and autumnal equinoxes, when the days and nights are of equal length.

to say the "Hallel," but not by the last mentioned; but it is necessary to say the "Hallel" during the time either is sacrificed: both must be roasted, and eaten with unleavened-cakes and bitter herbs; and [the sacrifice of] both supersedes the Sabbath.

§ 4. When a paschal sacrifice was brought under circumstances of legal impurity, it might not be eaten by men having a running issue, or by women suffering under an excessive flow of menses, by those in their ordinary menstrual period, and by lying-in women; but if they have eaten thereof, they do not thereby incur the penalty of utter excision, כרת. R. Eleazar considers these as also not subject to that punishment, if they have entered the sanctuary in that state.

§ 5. What is the difference between the Passover as celebrated in Egypt, and that observed by later generations? The Egyptian Passover was specially ordered to be purchased on the 10th of Nissan, and it was required that its blood should be sprinkled with a bunch of hyssop on the lintel, and on the two side-posts of the door, and also that it should be eaten with unleavened-bread on the first night of the Passover in a hasty manner; whilst it is required to abstain during the Passover of later generations, from all leaven during the whole seven days of its duration.

§ 6. R. Joshua says, "I heard once [of my teachers] that the animal which was substituted for another, intended as a paschal sacrifice, might be offered; and I have also heard, that it might not be offered: and I am unable to explain this." R. Akivah says, "I will explain it: if a paschal offering had been lost, and is again found, before the animal intended to replace it had been slaughtered, it must be left to pasture until it contracts a legal blemish, when it is to be sold, and peace-offerings purchased with its proceeds; and it is even so with the animal substituted for it, and if it was found after the other animal had been already killed, it may be sacrificed as a peace-offering, as also any animal substituted for it."

§ 7. If a person has set apart, or selected as a paschal-offering, a she-goat or a ewe-lamb, or a male of two years old, they must be left to pasture until they contract a [legal] blemish; they must then be sold, and the proceeds paid to the fund of voluntary burnt-offerings.[2] If a person who has selected his paschal-offering die [in the

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[2] There was a chest in the Temple for the reception of voluntary gifts for that purpose.

interim, before it is sacrificed], his son cannot bring it as a paschal offering, but must bring it as a peace-offering.[3]

§ 8. When a paschal sacrifice has become mixed with other [animals intended] as sacrifices, they must all be left to pasture till they contract a [legal] blemish; they are then to be sold, and [the owner] must bring for the price obtained for the finest animal among them, another sacrifice of each kind of offering [with which it was mixed], and the loss is to be defrayed from the private means of the owner. A paschal-offering which had become mixed with first-born [of animals], may, according to R. Simeon, be eaten by a company of priests.

§ 9. When a company have lost their paschal sacrifice, and say to some one, "Go, seek, and slaughter it for us," and he went, found, and slaughtered it, whilst the company had also slaughtered one; if his had been slaughtered first, he shall eat of it, and the others shall join with him in eating; but if theirs had been first slaughtered, they shall eat of theirs and he of his; if it is uncertain which had been slaughtered first, or that both had been slaughtered at one time, then shall he eat of his paschal-offering, of which the others are not permitted to partake, and their's must be burned; but they are not bound to observe a second Passover. If he had told them, "If I should stop out long, go ye and slaughter a paschal-sacrifice for me," and he went, found, and slaughtered [the lost paschal-sacrifice], whilst the others had also slaughtered one: if theirs had been first slaughtered, they shall eat it, and he may eat it with them; but if his had been first slaughtered, he shall eat of his, and they of theirs; if it be uncertain which sacrifice had been slaughtered first, or that both had been slaughtered at one time, then shall they eat theirs, but he is not permitted to eat thereof with them; and his sacrifice must be burned, but he is not bound to observe a second Passover. If he said to them, ["Slaughter a paschal offering for me should I stay away,"] and they had said to him ["Seek and slaughter for us our lost paschal sacrifice,"] they shall all eat of that which had been slaughtered first;[4] if it is uncertain which had been first slaughtered,

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[3] This does, of course, only apply in case that son had not been included among those appointed and numbered to eat it.

[4] The difference between this and the preceding proposition of our Mishna consists, that in the preceding part he said, "Slaughter it for me if I stop away," the others did not say, "We will do so," but here is an *expressed* mutual agreement to do certain acts by *both* parties.

then both must be burned; but if there was no expressed agreement between all the parties, they are not to be considered as at all connected with each other, [and each must eat his sacrifice separately].

§ 10. When the paschal sacrifices of two companies have become mixed, each company shall take one [of the animals], and a member of each company shall go to the other, whilst a member of that company goes to the first mentioned, and each company shall thus address the member of the other: "If this paschal offering be ours, we withdraw from your company, and be thou numbered with us; but should it be yours, then we withdraw from ours, and will be numbered with you;"[5] and thus five companies, of five members each, and ten, of ten, [shall act], namely, that one of each company shall conjoin with him one of another company, and shall thus address him.[6]

§ 11. When a paschal offering of two individuals has become mixed, each shall take one of the animals to himself, and invite a person from the street [a stranger] to eat it with him; these individuals shall then go to each other, and thus address each other's guest: "If this sacrifice is mine, withdraw from this, and be numbered with me, but if it is yours, then I do withdraw from mine, and will be numbered with you."[7]

CHAPTER X.

§ 1. It is not lawful for any individual to eat aught on the eve of the Passover, from about the time of מנחה till after dark; even the meanest in Israel shall not eat until they have arranged themselves in proper order at ease round the table; a person shall not have less than four cups of wine, even if they be given to him from the fund devoted to the charitable support of the very poor.

§ 2. When the first cup has been poured out, the blessing of the festival must be said, before that on the wine is said. Such is the

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[5] And their paschal sacrifice shall be eaten by the other company.

[6] As above stated.

[7] The necessity for these forms is two-fold: First, because it is a maxim, that one individual cannot be numbered in two companies, and eat of the paschal sacrifice of both; and, secondly, because every paschal offering must have owners to eat, and can only be eaten by the owners, and by those appointed and numbered to eat it with them.

dictum of Beth Shammai; but, according to Beth Hillel, the blessing on the wine is to be said before that on the festival.

§ 3. Herbs and vegetables are then to be brought: the lettuce is to be immersed, and part eaten thereof, until the eating of the unleavened-bread; then מצה, or unleavened cakes, are to be placed before him, as also lettuce, חרוסת,[1] and two kinds of cooked food, although the חרוסת is not strictly obligatory; but R. Eleazar bar Zadok says it is obligatory. During the existence of the Holy Temple, the paschal sacrifice was then also placed before him.

§ 4. A second cup of wine is then poured out; and the son shall then enquire of his father [the cause of this ceremony], and when the son's mental faculties are insufficient, the father is bound to instruct him in the following manner: "Wherefore is this night distinguished from all other nights? That on all other nights we may eat either leavened or unleavened bread, but on this night it must be all unleavened; on all other nights we may eat any kind of herbs, but on this night we must eat bitter herbs; on other nights we may eat meat, either roasted, boiled, or cooked in different ways, but on this night we must eat roasted meat only;[2] on all other nights we immerse what we eat once, but on this night twice." And according to the powers of comprehension of the child, thus his father is bound to teach him: he shall first inform him of the dishonour [of our ancestors], and conclude with the reading of the favourable and laudatory passages; he shall explain the passage, "Laban, the Syrian, had nearly caused my father to perish," &c. (Deut. xxvi. 5), till the end of that section.

§ 5. Rabbon Gamaliel says, "Whosoever does not mention [explain] three things on the Passover, has not fulfilled his duty. These are,—the Paschal sacrifice, the unleavened-cakes, and bitter herbs. The Paschal sacrifice is offered because the Lord passed over the houses of our ancestors in Egypt; the unleavened-bread [is eaten] because our ancestors were redeemed from Egypt [before they had time to leaven their dough]; and bitter herbs are eaten, because the

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[1] Cheroset is a kind of mixture or compound, made with dates, raisins, and other fruit, with vinegar, to commemorate the lime, &c., with which our ancestors were forced to labour in Egypt. It is also a kind of sauce [compare our note, chap. II. § 8]. The ancients were accustomed always to dip their food in something of this kind.

[2] This part was said during the existence of the Temple, when the paschal sacrifice was eaten roasted.

Egyptians embittered the lives of our ancestors in Egypt. It is therefore incumbent on every person, in all ages, that he should consider as though he had personally gone forth from Egypt, as it is said, 'And thou shalt shew thy son in that day, saying, This is done because of that which the Lord did for me in Egypt' (Exod. xii. 27). We are therefore in duty bound to thank, praise, adore, glorify, extol, honour, bless, exalt, and reverence Him, who wrought all these miracles for our ancestors and us; for He brought us forth from bondage to freedom, He changed our sorrow into joy, our mourning into a feast, He led us from darkness into a great light, and from servitude to redemption,—let us therefore say in His presence, 'Hallelujah!' [sing the Hallel].'[3]

§ 6. How far is the Hallel then to be said? According to Beth Shammai, till "He maketh the barren woman," &c. [the end of Psalm cxiii.]; but Beth Hillel say till "the flinty rock into a fountain of waters" [end of Psalm cxiv], and they are to close with a blessing for redemption. R. Tarphon says, "This is the form. Blessed art thou, O Lord our God, Sovereign of the universe, who hast redeemed us and our ancestors from Egypt," without any further closing blessing. R. Akivah says [in continuation to the preceding], "Thus mayest thou, O Lord our God, and the God of our ancestors, bring us to the peaceable enjoyment of other solemn feasts and sacred seasons which approach us, that we may rejoice in the rebuilding of thy city and exult in thy service, that we may there eat of the paschal and other sacrifices," &c. until, "Blessed art thou, O Lord, who hast redeemed Israel."

§ 7. A third cup of wine is then poured out, and the grace after meals is said. After pouring out the fourth cup he shall finish thereon the Hallel, and say the blessing on the songs [of praise].[3] A person may drink as much as he likes between the first [two] glasses, but not between the third and the fourth.

§ 8. It is unlawful to conclude the eating of the paschal sacrifice with a dessert. If any of the company fall asleep during the meal, they may eat of the paschal sacrifice afterwards; but when the whole company have fallen asleep, they may not eat again thereof [when they wake]. R. José says, "If they are only drowsy, they may eat it, but if they fall fast asleep, they may not eat of it [afterwards]."

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[3] That is, the psalms of praise, or "Hallel;" this blessing is נשמת כל חי, "The breath of all living," &c., and יהללוך, "All thy works, O Lord, shall praise thee," &c.

§ 9. The paschal offering does, after the hour of midnight, render the hands unclean.[4] Sacrifices which are rejected [פגול], or that have remained beyond their prescribed time [נותר], do also render the hands unclean. Whosoever has said the blessing on the paschal offering, is not bound to say that on the [festive] offering, but whoever has said the blessing on the festive offering is bound to say it on the paschal offering also. Such is the dictum of R. Ishmael; but R. Akivah says, "Neither of these absolves from the obligation of saying the other blessing."

XV. TREATISE SHEKALIM.

[Contains laws relating to the capitation tax of half a shekel, founded on Exod. xiii. 12.]

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[4] This will be explained in Treatise Yadaim.

XVI. TREATISE YOMAH,

OR, THE DAY OF ATONEMENT.

Introduction.

The first seven chapters treat of the manner in which the day of atonement[1] was celebrated in the second temple; the different sacrifices brought on that day, the preparation of the high priest for his ministry, and the order of service, as he performed it, entering fully into minute details of every circumstance connected therewith. The eighth chapter treats of the general observance of the day, with respect to fasting, penitence, &c., and the rules and regulations thereunto appertaining. As the precepts contained in the first seven chapters are at present in abeyance, the eighth chapter only has been translated.

CHAPTER VIII.

§ 1. On the day of atonement, it is forbidden to eat and to drink, to wash, to anoint,[2] to lace on [leather] shoes, and to indulge in sexual intercourse. A king and a bride [until the 30th day after her nuptials] may wash their faces; and a lying-in woman may lace [put] on [leather] shoes. Such is the dictum of Rabbi Eleazar: but the sages prohibit it.

§ 2. Whosoever eats food to the size of a large date, that is, the date with the kernel, or drinks a mouthful, is guilty. All kinds of

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[1] Levit. xvi. 1—34. Levit. xxiii. 26—32. Numb. xxix. 7—11.

[2] It was usual, in the days of the Mishna, to anoint the body and beard with scented oils and perfumes.

food are alike computed by the size of the date,[3] and all liquids by the mouthful; but food and beverage are not to be joined in the computation.[3]

§ 3. If on one occasion [through oblivion], man has eaten and drank, he needs bring but one sin-offering; if he has eaten and [also] done work, he must bring two [separate] sin-offerings; if he has eaten food which is not edible [properly and usually adapted for human sustenance], or has drunk liquids which are not properly and usually adapted for beverage—as if, for instance, he has drunk brine or fish-lie—he is absolved.

§ 4. Children need not be made to fast, but they are to be [gradually] habituated thereto, a year or two [before they are by law bound to fast], so that they become fluent [ready and accustomed] in obeying the commandments.[4]

§ 5. If a pregnant woman, through the smell of food, longs for some on the Yom Kipur, she is to be fed until she recovers [is satisfied]. A sick person is to be fed by direction of expert [physicians]; but if there be no expert physicians, he is to be fed at his own desire, until he himself says [I have] enough.

§ 6. If a man is seized with bulimy,[5] he is to be fed[6] even with unclean food, until his eyes become clear [bright]. A person who is bitten by a mad dog, on the Yom Kipur, must not have any of the dogs [reticule of the liver] given him to eat;[7] but R. Mathias ben Harash permits it. Moreover, R. Mathias ben Harash said, "If a person has a sore throat, it is permitted to put drugs [medicines] into his mouth on the Sabbath, because the disease may endanger his life, and whatsoever threatens to endanger life supersedes [the observance of] the Sabbath."

§ 7. If a building tumble down, and it is doubtful if any person be buried beneath the ruins or not; if it is doubtful whether he be dead or alive, or whether it be a heathen or an Israelite, it is permitted to remove the ruins from above him on the Sabbath; if he be found alive, the ruins are to be entirely removed [so as to extricate him]; but should he be dead, he is to be left [till afterwards].

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[3] Vide Treatise Sabbath. The food and the beverage are not to be joined, so as to be computed together as the quantity, the eating of which renders a man guilty.

[4] The legal age at which a boy is required to fast, and to perform all other religious duties, is from thirteen years upwards.

[5] בולמוס, *βουλιμια*, a diseased ravenous appetite.

[6] This rule holds good on the Yom Kipur, or at any other time.

[7] It is considered not as a certain cure, but as a sympathetic remedy.

§ 8. The sin-offering, and trespass-offering for sins done wittingly, atone [for sin]. The Yom Kipur and death, make atonement through [sincere] penitence; penitence makes atonement for slight transgressions against positive or negative commandments; in grave transgressions, it obtains a respite [8] until Yom Kipur completes the atonement.

§ 9. He who says, "I will sin, and then repent, I will sin [again], and then do penance," is not permitted [from on high] to become penitent; [for him who thinks] "I will sin; the Yom Kipur will atone for my transgression," Yom Kipur does not make any atonement. A transgression which a man has been guilty of towards his God, Yom Kipur will atone for; but a transgression a man has been guilty of towards his neighbour, Yom Kipur cannot atone for, until he has appeased his neighbour. For thus R. Eleazar ben Azariah expounds the text, "'From all your sins before the Lord shall ye be clean:'[9] those transgressions of which man has been guilty towards his God, Yom Kipur atones for; but for those transgressions of which man has been guilty towards his neighbour, Yom Kipur cannot atone, until he has appeased his neighbour." R. Akivah saith, "Happy are ye, O Israel, before whom do ye cleanse yourselves, and who cleanses you [of your transgressions]? Your father who is in heaven. For it is said, 'Then will I sprinkle clean water upon you, and ye shall be clean;'[10] and it is also said, 'the מקוה[11] of Israel is the Lord;' even as a diving-bath purifies the unclean, so does the Holy One, blessed be He, cleanse Israel."[12]

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[8] The doom is suspended. [9] Lev. xvi. 30. [10] Ezek. xxxvi. 25.

[11] A bath of running water, into which a person who has contracted any uncleanness descends and dives, and becomes clean again.

[12] Jer. xiv. 8.

XVII. TREATISE SUCCAH,

OR, OF TABERNACLES.

Introduction.

This book contains rules and regulations for the due observance of the festival of tabernacles. The law instituting this festival is to be found in the Pentateuch, Levit. xxiii. 33—43. "And the Lord spake unto Moses, saying, Speak unto the children of Israel, saying, On the fifteenth day of this seventh month shall be the feast of tabernacles for seven days unto the Lord. On the first day shall be a holy convocation unto you: ye shall do no servile work therein. . . . Also, in the fifteenth day of the 7th month, when ye have gathered in the fruit of the land, ye shall keep a feast unto the Lord, seven days: on the first day shall be a Sabbath, and on the eighth day shall be a Sabbath. And ye shall take you on the first day the fruit of the tree Hadar, branches of palm-trees, and the boughs of myrtle-trees, and willows of the brook, and ye shall rejoice before the Lord your God seven days: and ye shall keep it a feast unto the Lord seven days in the year. It shall be a statute for ever in your generations: ye shall celebrate it in the seventh month. Ye shall dwell in booths seven days; all that are Israelites born shall dwell in booths: that your generations may know that I made the children of Israel to dwell in booths when I brought them out of the land of Egypt: I am the Lord."

The precise manner in which these various enactments and observances are to be carried out, is the subject of the present Treatise; it also treats of certain ceremonies and public rejoicings that were celebrated at Jerusalem, and which have given rise to the Simchath Torah of later ages.

CHAPTER I.

§ 1. A succah[1] [booth, the interior of] which is above twenty amoth high, is not valid.[2] R. Jehudah declares it valid. One which is not ten hands high, one which has not three walls, or which has more sun than shade,[3] is not valid. An old succah, Beth Shammai hold to be not valid; but Beth Hillel hold it valid. What is [considered as] an old succah? One that had been constructed thirty days before the festival; but if it has been constructed on purpose for the festival, even though it should be a year old, it is valid.

§ 2. If a man construct his succah beneath a tree, it is as if he had constructed it in the house. Should he construct one succah above another, the upper one is valid, but the lower one is not. R. Jehudah saith, "Should the upper one not be habitable,[4] the lower one is valid."

§ 3. If a cloth be spread over [the roof of the succah as a screen] against the sun, or below [the roof, inside] to catch the falling leaves; or if a man has spread a cloth over a [four post] bed tester[5] [the succah] is not valid; but he may spread a cloth over two bed posts.

§ 4. If a man has trained a vine, or a gourd, or ivy over [the succah], and covered it [according to another version, and covered *them* the succah is not valid]; but should the covering be more [in substance and extent] than these [the vine, &c.], or if they have been cut [trimmed], it is valid. The rule is, every thing which contracts uncleanness and does not derive its growth from the ground, must not be used as a cover [to the succah]; but every thing which does not contract uncleanness, and does derive its growth from the ground, is to be used as a cover [to the succah].

§ 5. Bundles of straw, bundles of wood [stalks], and bundles of twigs, they must not [use to] cover [the succah]; all of these [how-

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[1] It is a standing rule that the succah must be a temporary habitation, constructed for the use of the festival only, and not a permanent dwelling; and it must represent a detached booth or hut.

[2] פסול, null, not valid, as not being in conformity to the rules and regulations laid down. כשר, valid, being in conformity to these rules.

[3] In which the part open to the rays of the sun exceeds in extent the part which is shaded by the cover.

[4] Because the floor of the upper [which is the] roof of the lower succah, cannot bear the weight it has to carry.

[5] As that forms a broad [square] top, which converts the bed into a tent, whereas two bed-posts form a narrow top, which is not considered as a tent.

ever, if the bundles be] untied, are valid. All of these [in bundles] may be used as side-walls.

§ 6. They may cover [the succah] with thin boards [laths]. Such is the dictum of R. Jehudah: but R. Meir prohibits it. If a man has put a deal board four hands wide over the succah, it is valid, provided he do not sleep under it [the deal-board].

§ 7. [If] small rafters, over which there is no ceiling [are to be used for a succah], R. Jehudah saith, "Beth Shammai hold [the rafters must be] loosened, and the middle one out of every three be removed;" but Beth Hillel hold, "He needs either [loosen] the rafters, or remove the middle one out of every three." R. Meir saith, "He must remove the middle one out of every three [rafters], but he needs not loosen [the whole of them]."

§ 8. If a man roof in his succah with iron spits [rods], or the boards of the bedstead, should the interspace between them [covered by some vegetable material] be equal to [or larger than] the space roofed in [by the rods, &c.], it is valid. Should a man pile up loose sheaves, to use as a succah, it is not valid.

§ 9. If a person entwine the sidewalls from the roof downwards, should they not reach the ground by three hands wide, the succah is not valid. [If he has entwined them] from the ground upwards, should they be ten hands high, it is valid. R. José saith, "Even as from the ground upwards ten hands [and the height required by law], so likewise from the roof downward [the height required by law] is ten hands. If the covering be at a distance of three hands above the side walls, the succah is not valid."

§ 10. Should a house have been unroofed, and covered [to constitute a succah], if there be [an interspace of] four amoth between the wall and the [vegetable] covering, it is not valid; [such is] likewise [the case with] a court in which there is a covered passage. If the top of a large succah has been inclosed [covered] with [some] material [which] they must not [use to] cover it, should there be below it [an interspace of] four amoth, the succah is not valid.

§ 11. If a man construct his succah in the shape of a pyramid, or leans [supports] the top against the wall [in a slanting direction], R. Eleazar pronounces it not valid, because it [the succah] has no roof; but the sages declare it valid. A large reed mat which has been made [for the purpose] to sleep thereon, [is liable to] contract uncleanness, and they must not cover a succah therewith; [but if made for the purpose of serving] as a cover [for a succah] they may use it as such, and it does not contract uncleanness. R. Eleazar saith,

"Whether it be large or small, if [such a mat has been] made for [the purpose of] sleeping thereon, it contracts uncleanness, and must not be used as a cover; but if [it has been] made [for the purpose of using it] as a cover, they may use it as such, and it does not contract uncleanness."

CHAPTER II.

§ 1. He who sleeps under a bed in the succah, has not acquitted himself of his whole duty.[1] R. Jehudah said, "We were in the habit of sleeping under a bed in the presence of the elders, and they never said anything to us [against it]." R. Simeon said, "It happened that Tabbi, the bondman of R. Gamaliel, used to sleep under a bed." But R. Gamaliel said to the elders, "Do you see my bondman Tabbi; he is a disciple of the sages, and knows that bondmen are exempt from [the obligation of dwelling in] the succah; therefore, he sleeps under a bedstead [in the succah]." From this [observation of Rabbon Gamaliel] we in our usual way deduce, that he who sleeps under a bed [in the succah] has not acquitted himself of his whole duty.

§ 2. If a man support his succah with his bedstead, it is valid. R. Jehudah saith, "A succah which cannot stand by itself [without extraneous support] is not valid." A succah which is irregularly covered, and the shade [covered part of which] is greater than that open to the sun,[2] is valid; should the covering be close, like the roof of a house, although the stars are not visible through it, it is nevertheless valid.

§ 3. If a man construct his succah on the top of a waggon, or on a vessel, it is valid, and he may ascend thereto on the festival. If he has constructed the succah on the top of a tree, or on the back of a camel, it is valid; but he must not ascend thereto on the festival.[3] [If] two [side walls of the succah are formed] by a tree, and one by

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[1] The duty of residing in the succah comprises the duty of sleeping therein; but it is unlawful to interpose another roof under that of the succah; and a bed ten hands high is considered as a tent.

[2] This is rendered according to one explication of the text given in the Talmud; but, according to another opinion, the Mishna here intends to establish two distinct rules:—1. If the covering is irregular, so that it leaves gaps, or openings, while parts of the covering hang down, while, if properly extended, there is sufficient material to cover the whole. 2. If the shaded part exceed that open to the sun. In either case the succah is valid.

[3] He may, however, use it on the middle days.

human hands, or two [are formed] by human hands, and one by a tree, the succah is valid, but he must not ascend thereto on the festival. If three [side walls] are formed by human hands, and the fourth by a tree, the succah is valid, and he may ascend thereto on the festival. This is the rule, Whenever the succah can stand by itself, even should the tree [which partly supports it] be removed, the succah is valid, and it is lawful to ascend thereto on the festival.

§ 4. If a man construct his succah between trees, and the trees form side walls, the succah is valid. Persons deputed on a pious mission are exempt from [the duty of dwelling in] the succah; so likewise are sick persons, and those who attend on [nurse] them. Men may occasionally eat or drink something out of the succah [during the festival].

§ 5. It happened that a dish [of victuals] was brought to R. Jochanan ben Sachai [for him] to taste; and that two dates and a jar of water, were brought to Rabbon Gamaliel; each of them said, "Bring it to the succah." But when food, less [in quantity] than an egg, was brought to R. Zadok, he took it in the napkin,[4] and eat it out of the succah, but did not say grace after it.

§ 6. R. Eleazar saith, "A man is bound to eat fourteen meals in the succah, one in the morning, and one at night [of each day of the festival]:" but the sages say the thing has no legal limitation [is not fixed by law], except [that he is bound to take his meals in the succah], on the first night of the festival. R. Eleazar also said, "He who has not taken his meal [in the succah for the first night of the festival] can make amends for it [by taking his meal therein] on the last night of the festival:" but the sages hold that no amends [can] in that case be made; and they apply thereto the text, "That which is defective cannot be amended, and what is deficient cannot be made up."[5]

§ 7. If the head, and the greater part of a man's body be in the succah, and his table in the house, Beth Shammai declare it not valid; but Beth Hillel declare it valid. The school of Hillel said to the school of Shammai, "Did it not happen that the elders of the school of Shammai, and those of the school of Hillel, went to visit R. Jochanan ben Hachoroni, and they found him sitting with his

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[4] He did not touch it with his naked hand, because, not having washed previous to eating, he did not wish to expose the food to any uncleanness that might attach to his hands.

[5] Eccles. i. 15.

head and the greater part of his body in the succah, while his table was [placed] in the house; and they said nothing to him [on the subject]." But the school of Beth Shammai replied, "[Do you adduce that] as a proof [in support of your opinion]?" They [the elders] did say to him "If such has [always] been thy custom, thou hast never throughout thy whole life properly obeyed the commandment [to dwell in the succah]!"

§ 8. Women, bondmen, and minors, are exempted from [the obligation of dwelling in] the succah. A boy, who no longer needs [the nursing of] his mother, is bound to [obey the commandment of] the succah. It so happened that the daughter-in-law of Shammai the elder,[6] gave birth to a son [on the festival] when he caused the ceiling to be removed, and covered [the vacancy] over her bed [with a vegetable covering] on account of the [new-born] infant.

§ 9. During the whole seven days of the festival, a man is to constitute the succah his regular domicile, and his house [is to be only] as an occasional abode. If rain fall, when is it permitted to clear out [remove from the succah]? When a mess of porridge has been spoiled, they [the elders] illustrate this by a comparison, "What does such a circumstance resemble? It is as if a servant pour out a goblet for his master, who throws a bowl full in his face."

CHAPTER III.

§ 1. A לולב [palm-branch] which has been acquired by theft, or which is withered, is not valid. One which comes from a grove[1] [devoted to idolatry], or from a rejected town[2] [that has been enticed to idolatry], is not valid. If the point has been broken off, or the leaves torn off, it is not valid: if they are only dissevered, it is valid. R. Jehudah saith, "It must be tied together at the top." A loolab from the Iron Mount[3] [is valid]. A loolab that measures three hands [in length] sufficient to shake it by, is valid.

§ 2. A myrtle-bough which has been acquired by theft, or which is withered, is not valid. One which comes from a grove, or from a rejected town, is not valid. If the point has been broken off, or

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[6] The founder of the school which bore his name, contemporary with Herod the Great, lived about eighty years before the destruction of the Temple.

[1] In which the palm-tree is devoted to idolatrous rites.

[2] Deut. xiii. 12.

[3] A mountain near Jerusalem, southward, the palm-branches on which were very short.

the leaves torn off, or if one has more berries on it than leaves, it is not valid: if they [the number of berries] have been lessened, it becomes valid; but this must not be done on the festival.

§ 3. A willow of the brook, which has been acquired by theft, or which is withered, is not valid. One which comes from a grove, or from a rejected town, is not valid. If the point has been broken off, or the leaves torn off, or if it be a צפצפה,[4] it is not valid. One that is faded, or from which some of the leaves have dropped off, or which has grown on dry ground [not near a brook], is valid.

§ 4. R. Ishmael saith "[A man is to use] three myrtle boughs, two willows, one palm-branch, and one citron; even if two out of the three myrtle-boughs have their points broke off [they may be used]." R. Tarphon saith, "Even though all three should have their points broke off [they may be used]." R. Akivah saith, "Even as one citron and one loolab [only are used], so likewise [are] one myrtle-bough and one willow [only to be used]."

§ 5. A citron which has been acquired by theft, or which is withered, is not valid. One that comes from a grove, or from a rejected town, is not valid. One [taken] off a tree which is not circumcised,[5] is not valid; nor [one taken] from heave-offering[6] that is unclean. From clean heave-offering man is not to take a citron; but if he has taken one, it is valid. One [taken] from *Demai*,[7] Beth Shammai declare not valid, but Beth Hillel declare it valid. Man is not to take a citron from second tithe in Jerusalem, but if he has taken one, it is valid.

§ 6. If one stain[8] spread over the greater portion of the citron, if it has lost its crown, or the fine rind thereof has been peeled off, or if it be split, or perforated [or not entire]; if ever so little thereof be wanting, it is not valid. If the stain be spread over the smaller portion of the citron, if it has lost its stalk, or if that be perforated [but the citron itself is entire], so that no part thereof, however

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[4] The distinguishing marks of a brook-willow [*salix helix*] are dark wood, long leaves, with smooth margin; those of a צפצפה are white wood, round leaves, with serrated margin. Among the many different species of willow which answer to this last description, it is impossible to describe which is the one meant by the text.

[5] Vide Levit. xix. 23, and Mishna, Treatise Orlah. [6] Numb. xviii. 11, 12.

[7] Fruit of which it is doubtful whether the legal dues have been paid.

[8] But if there are two different stains on the body of the citron, even though they spread only over a small portion thereof, or if there be any stain on the crown, the citron is not valid.

small, be wanting, the citron is valid; a dark coloured one is not valid. A leek-green citron R. Meir pronounces valid: but R. Jehudah declares it not valid.

§ 7. [Respecting] the [minimum] legal size of a small citron, R. Meir saith, "[It must be] like a nut." R. Jehudah saith, "like an egg; and of a large citron [it must be such] that a man can hold two in one hand." Such is the dictum of R. Jehudah: but R. José saith, "Even though [he must use] two hands to one citron [it is of legal size and valid]."

§ 8. The loolab must only be tied with its own kind [palm branches]. Such is the dictum of R. Jehudah: but R. Meir saith, "[it may be tied] even with twine." R. Meir also said, "It happened that the inhabitants of Jerusalem tied a loolab with gold lace." But they [the sages] replied, "[Yes, they did so], but [beneath the gold lace] they tied it with its own kind."

§ 9. When did they shake the loolab? "At [the verse] הודו לה׳, [praise ye the Lord, &c.],[9] at the beginning and ending thereof; and at the verse, אנא ה׳ הושיעה נא [O Lord, we beseech thee, save us.]"[10] Such is the dictum of Beth Hillel: but Beth Shammai hold, "[That the loolab must] also [be shaken] at [the verse] אנא ה׳ הצליחה נא, [O Lord, we beseech thee, prosper us]."[11] R. Akivah said, "I watched [particularly noticed] Rabbon Gamaliel and R. Joshua; and I saw, that while all the people shook their palm branches [at both the last-mentioned verses], they [the two rabbies] only shook theirs at הושיעה נא." If a person is on the road, and has no loolab with him, he must, when he gets home, shake it at his table, [even while at his meals]. If he has not done it in the morning, he must do it towards the evening, as the whole of the day is valid for [the use of] the loolab.

§ 10. If the hallel[12] be read to a man by a bondman, or a woman, or a minor, he must repeat after them [word for word] what they read;[13] but it is a disgrace to him.[14] If a grown-up person[15] read it [the hallel] to him, he only repeats after him [responds] Hallelujah.

[9] Ps. cxvii. [10] Ps. cxviii. 25. [11] Ps. cxviii, end of verse 25.

[12] The *lauds*, a prayer composed of Psalms cxiii. to cxviii. inclusive.

[13] Whosoever is not legally obliged to perform a duty cannot exempt others by acting as their deputy. And as bondmen, women, and minors are not legally compelled, their reciting the prayer will not exempt the man; who, therefore, must repeat it verbatim.

[14] It is disgraceful to him that he has not learned his prayers.

[15] A youth of the legal age of thirteen years and upwards, who, being legally obliged, may act as deputy for another.

§ 11. At a place where it is the custom to repeat [read certain[16] verses twice], a man is to repeat [them]. Where it is the custom simply [to recite them once] a man is simply [to recite them once]. Where it is the custom to say a benediction after the loolab, a man is to say a benediction. In every case, according to the custom of the country, [a man must conform thereto]. If a person purchase a loolab from his neighbour during the seventh [Sabbatical year], he [the vendor], is to give him a citron as a gift [in the bargain]; for it is not permitted to buy a citron during the seventh [Sabbatical year].

§ 12. Formerly the loolab was used in the Temple [on each of the] seven [days of the festival]; and, in the country, [every place except the Temple at Jerusalem], the first day [only]. But after the Temple was destroyed, R. Jochanan ben Sachai decreed, "That in the country [everywhere] the loolab should be used [during the whole] seven [days] of the festival, in memory of the Holy Temple." He, at the same time, also decreed, "that on the day of נוף[17] it should be unlawful to eat new grain."

§ 13. If the first day of the festival fall on a Sabbath, every man is to bring his loolab to the Synagogue [on the Sabbath-eve, and leave it there]. On the [next] morning they come early to Synagogue, and each man must distinguish [seek out] his own loolab, and take it; for the sages hold, "that a man cannot fully acquit himself of his duty on the first day of the festival, by means of a loolab that belongs to his neighbour; whereas, on the subsequent days of the festival, he may fully acquit himself of his duty, by means of a loolab belonging to his neighbour."

§ 14. R. José saith, "If the first day of the festival fall on the Sabbath, should a man forget [that it is the Sabbath-day], and carry his loolab out [into the public reshuth],[18] he is absolved; because he carried it out with intent to fulfil the law."

§ 15. A woman may receive the loolab out of the hand of her son, or of her husband, and put it back into water on the Sabbath. R. Jehudah saith, "On the Sabbath it may be put back, on the festival they may add [fresh water], and on the middle days they may change [the water; pouring out the stale, and putting fresh water in its stead]. A minor, who understands how to shake the loolab, is bound to perform that duty."

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[16] From the verse אודך כי עניתני. (Ps. cxviii. 21, to the end.)

[17] The day of waving [the sheaf of the first fruits]. The 16th day of Nissan [the first month] was so called. (Vide Lev. xxiii. 10, 11.)

[18] Vide Introduction to Treatise Sabbath.

CHAPTER IV.

§ 1. The loolab and willow [to surround the altar, was sometimes used] on six [days], and [sometimes] on seven [days of the festival]. The hallel and the joyous repasts, [eating of peace-offerings, took place on] eight [days]. The [dwelling in the] succah, and the pouring out water, [lasted] seven [days], and the pipes [were played on sometimes] five, and [sometimes] six [days].

§ 2. [In which case was] the loolab [used] seven [days?] how? When the first holy day of the festival fell on a Sabbath, the loolab [was used on] seven [days]; but, [when the first day of the festival fell on] any other day [of the week] the loolab [is only used] six [days].[1]

§ 3. [In which case was] the willow [used on] seven [days?] How? When the seventh day of the willow happened to fall on a Sabbath, [the willow was used] seven [days]; but, when the seventh day fell on any other day [of the week], the willow was only used six [days].

§ 4. How was the command to take the loolab [fulfilled] when the first holy day of the festival fell on a Sabbath? [It was the custom that] every man brought his loolab to the Temple mount, where it was received by inspectors, who deposited it in a gallery. The elders placed theirs in a [separate] chamber; and the people were taught to say, "Whosoever gets hold of my loolab; be it his [I bestow it on him] as a gift." On the [next] morning the people came early; the inspectors threw all the loolabs down before them; every man seized on one, and it often happened that they hurt each other [in the scramble]. When the Beth Din[2] saw that people were thus exposed to danger, they decreed that every man was to use his loolab in his own house.

§ 5. How was the command to take the willow [fulfilled]? There was a place below Jerusalem called מוצא:[3] thither the people descended, and gathered drooping willow branches: these they brought and placed at the side of the altar, the tips inclining over it. While this was doing, a blast, a long note, and again a blast were blown.

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[1] It was not permitted to use the loolab on the intervening Sabbath.

[2] The Sanhedrin, supreme tribunal of justice and of ritual observance.

[3] Supposed to mean free [or exempt] place. As it was exempt from taxation, it was called Colonin.

Every day they made one circuit round the altar, and recited [the verse], "אנא ה' הושיעה נא, אנא ה' הצליחה נא." R. Jehudah said the words, אני והו הושיעה נא, [were also said]. On the particular day for using the willows [the seventh of the festival] they made seven circuits round the altar. When they withdrew, what did they say? "Beauty is thine, O altar! Beauty is thine, O altar!" R. Eleazar said, [they also said] "To God and to thee, O altar! To God and to thee, O altar!"[4]

§ 6. As they did on the week-days, so they did likewise on the Sabbath; excepting only that they gathered the willow branches on the Sabbath-eve, and put them into golden casks [filled with water], that they might not fade. R. Joshua ben Beroka saith, "They fetched branches of palms, and threshed [beat] them to pieces at the sides of the altar." [According to another version, "on the altar."] Thence the day was called "the branch threshing-day."

§ 7. Directly afterwards the children threw down their loolabs, and eat their citrons.

§ 8. How [was it that] the hallel and joyous repasts [took place on] eight [days]? Because it is deduced that man is bound to recite the hallel, and to enjoy the repasts [of his peace-offerings] in honour of the last day of the festival, even as on the preceding days thereof. How [is it that] the succah [is dwelt in] seven [days]? When a man has taken his last meal therein, he is not directly to pull down his succah; but, after noon, he moves the furniture back [into the house], in honour of the last day of the festival.

§ 9. How was the pouring out of the water? A golden pitcher, that held three lugs was filled with water from the [brook] Siloah. When they came [with it] to the water-gate, they blew a blast, a long note, and again a blast. The priest then ascended the stair [of the altar], and turned to the left; two silver basins stood there. R. Jehudah saith, "they were of gypsum [stucco], but had a dark appearance from the wine." Each was perforated with a small hole, like a nostril [at the bottom]. The one [for the wine] somewhat wider, the other [for the water] narrower, that both might get empty at once. The one, to the west, [was used] for the water; the other, to the east, for the wine: but if the water was poured into the wine basin, or the wine into the water basin, it was legal. R. Jehudah

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[4] Our thanks are due to God, and to the altar on which atonement has been made for us.

saith, "They poured out one lug on each of the eight days. To him who poured out the water the people called, 'Raise thy hand;' for once it happened that one [priest charged with this duty] poured the water over his feet,[5] and all the people pelted him to death with their citrons."

§ 10. As they did on the week-days so they did likewise on the Sabbath, except that they fetched the water from Siloah on the Sabbath-eve, in a golden cask that had not been consecrated, and placed it in a chamber; if it was upset, or uncovered, they filled again from the laver. For it was not lawful to bring on the altar, water or wine which had been uncovered.

CHAPTER V.

§ 1. The pipes [were played sometimes on] five [days], and [sometimes on] six days. This means, the pipes [music] played on during the water-drawing, which does not supersede either the Sabbath or the festival. They [the sages] said, "He who has not witnessed the rejoicings at the water-drawing, has, throughout the whole of his life, witnessed no [real] rejoicing."

§ 2. At the expiration of the first holy day of the festival they descended into the women's court, where great preparations were made[1] [for the rejoicing]. Four golden candelabras were [placed] there, with four golden basins to each; and four ladders [were put] to each candelabra, [on which ladders stood] four lads from the rising youth of the priesthood, holding jars of oil, containing 120 lugs, with which they replenished [fed] the basins.

§ 3. The cast-off breeches and belts of the priests were torn into shreds for wicks, which they lighted. There was not a court in Jerusalem that was not illuminated by the lights of the water-drawing.

§ 4. Pious and distinguished men danced before the people with lighted flambeaux in their hands, and sang hymns and lauds before them; and the Levites accompanied them with harps, psalteries, cymbals, and numberless musical instruments. On the fifteen steps which led into the women's court, corresponding with the fifteen

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[5] He was a Sadducee, and as such, rejected the authority of tradition.

[1] Galleries were erected for the women, while the men occupied the space below.

songs of degrees,[2] stood the Levites, with their musical instruments and sang. At the upper gate, which leads down from the court of the Israelites to the court of the women, stood two priests, with trumpets in their hands. When the cock [first] crowed they blew a blast, a long note and a blast.[3] This they repeated when they reached the tenth step, and again [the third time] when they got into the court. They went on, blowing [their trumpets] as they went, until they reached the gate that leads out to the east. When they reached the gate that leads out to the east, they turned westward [with their faces towards the Temple], and said, "Our ancestors, who were in this place, turned their backs on the Temple of the Lord, and their faces towards the east; for they worshipped the Sun towards the east:[4] but we lift our eyes to God." R. Jehudah saith, they repeated again and again, "We belong to God, and raise our eyes to God."

§ 5. In the Temple they never blew the trumpet less than twenty-one times a-day, nor oftener than forty-eight times. They daily blew the trumpet twenty-one times: — thrice at opening the gates, nine times at the continual [burnt-offering] of the morning, and nine times at the continual [burnt-offering] in the evening. When additional offerings [מוספין] were brought, they blew nine times more. On the eve of the Sabbath, they blew six times more :—thrice to interdict the people from [doing] work, and thrice to separate the holy day from the work day. But on the eve of the Sabbath, during the festival [of succoth], they blew forty-eight times :—thrice at the opening of the gates, thrice at the upper gate, thrice at the lower gate, thrice at the water-drawing, thrice over the altar, nine times at the continual [burnt-offering] of the morning, nine times at the continual [burnt-offering] in the evening, nine times at the additional offerings, thrice to interdict the people from [doing] work, and thrice to separate the holy day from the work day.

§ 6. On the first holy day of the festival there were thirteen bullocks, two rams, and one goat [to be offered]; there then remained fourteen lambs for eight orders of priests.[5] On the first day of the

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[2] שיר המעלות. (Ps. cxx. to cxxxiv. inclusive.)

[3] This was the signal for drawing water.

[4] In the days of the first Temple. (Vide Eze. viii. 15, 16.)

[5] The priesthood was divided into twenty-four orders, each of which, in rotation, ministered one week in the Temple. (Vide 1 Ch. xxiv. 7—19.) But, during the festival, the whole of the twenty-four orders ministered. On the first day, thirteen bullocks, two rams, and one goat were offered by sixteen orders, and the fourteen sheep by the other eight. As each day one bullock less was offered,

festival six [of these orders] offered two lambs each, and the other [two orders] one lamb each. On the second [day] five [of the orders] offered two lambs each, and the remaining [four orders] one lamb each. On the third [day] four [orders] offered two lambs each, and the remaining six [orders] one lamb each. On the fourth [day] three [orders] offered two lambs each, and the remaining [eight orders] one lamb each. On the fifth [day] two [orders] offered two lambs each; and the remaining [ten orders] one lamb each. On the sixth [day] one [order] offered two lambs, and the remaining [twelve orders] one lamb each. On the seventh day they were all equal. On the eighth day they cast lots, as on other festivals. It was so regulated, that the order which offered bullocks one day were not permitted to offer bullocks the next day; but it went in rotation.

§ 7. Three times in the year[6] all the twenty-four orders of priests were alike entitled to share in the offerings of the festival, and in the shewbread; and on the feast of weeks the distributors say to each priest, "Here is leavened bread for thee, and here is unleavened bread for thee."[7] The order [of priests], whose regular time of service occurs in the festivals, offer the continual offerings, vows, and free-will offerings, and all public services, and every sacrifice [that does not belong to the festival]. If a festival fall next to a Sabbath, either preceding or succeeding it, all the [twenty-four] orders share alike in the shewbread.

§ 8. But if a day intervene between the Sabbath and the festival, the order [of priests] whose regular turn [of service] it was, received ten of the shewbread, and the loiterers[8] received two shewbread. At other times of the year the order which entered [on their duty] received six [shewbread]; and that which went off duty also received six. R. Jehudah saith, "That [order] which enters [on duty]

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one more order of priests joined in offering the fourteen lambs in the manner mentioned in the text. On the seventh day, seven bullocks, two rams, one goat, and fourteen lambs, furnished one beast a-piece for each of the twenty-four orders.

[6] At the three annual festivals.

[7] If the feast of weeks fell on the Sabbath, the unleavened shewbread, and the two leavened wave loaves, had to be divided. (Vide Levit. xxiii. 17.)

[8] Various explanations are given as to the meaning of this word. It seems to apply to the priests, whose regular turn of service it was, but who were in no hurry to attend; as, during the festival, they had to share the perquisites with the whole priesthood.

receives seven [shewbread], and that which goes off receives five [shewbread]." Those who entered, shared them on the north side; and those who went out, on the south side [of the Temple court]. The order Bilgah[9] always divided [their share] on the south side; their slaughter ring was fastened down, and the window [of their chamber] blocked up.

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[9] The order Bilgah was the fifteenth. (Vide 1 Ch. xxiv. 14.) Each order had an iron ring of its own, to which the head of the animal was fastened, so as to slaughter it with greater ease. Each order also had a chamber or store-room of its own. The order Bilgah was deprived of these, and otherwise stigmatised, through an occurrence that took place during the persecution under Antiochus. Miriam, a daughter of Bilgah, renounced her faith, and married a Syro-Grecian chieftain. When the Greeks took possession of the Temple, she struck the altar with her shoe, exclaiming, "Thou insatiable wolf, how much longer art thou to consume the wealth of Israel, and canst not help them in their hour of need." This conduct was imputed to the bad example she must have seen in her father's house; and a stigma was cast on the whole order, which was degraded, as related in the text.

XVIII. TREATISE YOM TOB,

OR, OF THE FESTIVAL.

Introduction.

This book, which is commonly called ביצה, or egg [from the word with which it commences], contains laws and regulations for the proper observance of the festivals. It explains the works forbidden on the Sabbath, but which may be done on the festival; and prescribes the restrictions and mode in which they may be done.

It is necessary, for the proper understanding of this Treatise, to explain here three phrases which will often occur therein; viz. גולד, i. e. whatever was born or has come into existence, has been produced, or become fit for use, on the very day of the festival, is thus called. Such are the egg that was laid on the day of the festival, the fruit which thereon had fallen from trees, &c. All these may not be used on the festival, because thereon those things only may be used which have been מוכן, or *prepared* before the festival. The third term, מוקצה, designates those articles of food, &c. which have not been thus previously "prepared," or set apart for the festival; and which, therefore, may not be used thereon.

CHAPTER I.

§ 1. An egg laid on the festival may be eaten thereon, according to Beth Shammai; but Beth Hillel are of opinion, it may not be eaten. Beth Shammai also decide, "that leaven of the size of an olive, and leavened bread, of the size of a date, [must be removed before Passover];" but Beth Hillel say, "both are to be removed when of the size of an olive [only]."

§ 2. When a person wishes to kill on the festival a wild animal, or

fowl, he may, according to Beth Shammai, "remove with a spade, which had been stuck in the ground [before the festival], the loose earth, and cover the blood therewith." But Beth Hillel will not permit to kill on the festival, unless the person has prepared the earth to cover with on the day preceding the feast. Both colleges, however, agree that in case a person *did* kill, he may dig with a spade to obtain earth to cover with. Ashes from the hearth may be considered as "prepared" for use.

§ 3. Beth Shammai say, "It is prohibited to remove a ladder from one dove-cote to another; it may, however, be removed from one opening to another of the same dove-cote." But Beth Hillel allow both. Beth Shammai say, "It is unlawful to remove the birds from their places, unless they had been shaken [or touched] *before* the festival."[1] But Beth Hillel say, "It is unnecessary to do more than, standing before the next,[2] to say, This and that bird will I take for the festival."

§ 4. If a person who had prepared for the festival black pigeons, finds white ones, or having prepared white pigeons, should find black ones; or two birds, and he find three, they may not be used. If three birds had been prepared, and two only are found, they may be used, but if they had been "prepared" within the nest, and are found before the nest, they may not be used, unless there were no other birds but these in the dove-cote.

§ 5. The shutters of moveable stalls[3] may not be removed on the festival according to Beth Shammai; but Beth Hillel allow not only this, but also to replace them. Beth Shammai say, "The [large wooden] pestle may not be moved for the purpose of using it as a block to cut meat upon;" but Beth Hillel allow it. Beth Shammai teach, "That it is unlawful to lay down a skin to be trodden on [as a preparation for its being tanned], or to raise it from the ground, unless the [*minimum*] quantity of meat of the size of an olive be thereon;" but Beth Hillel allow it. Beth Shammai teach, "That it is unlawful to carry out into a public place on the festival, a child, a [loolab], or palm-branch, &c., or a roll of the law;" but Beth Hillel allow it.

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[1] To "prepare" them to be used on the festival.

[2] Without actually handling the birds.

[3] The stalls here mentioned were used by spice vendors, they had the form of a box, with moveable lids or partitions, which were taken out and used as a table to expose thereon the spices for sale.

§ 6. Beth Shammai hold it to be unlawful to carry to the priest on the festival חלה, or other gifts [belonging to the priests], whether they had been set apart for that purpose on that day, or on the day previous; but Beth Hillel allow it. Beth Shammai alleged to them in support of their decision, the similarity of expression in both, and said, חלה and other priestly dues are called *gifts* [מתנות], due to the priests: תרומה, or heave-offering, is also one of these gifts; now, even as heave-offering may not be carried to the priest on the festival, thus must it be equally unlawful to bring to him any other priestly "*gifts*" on that day. But Beth Hillel reply, "That which is affirmed of the heave-offering cannot apply to the other gifts,[4] for that cannot be incurred on the festival, but the other gifts may."

§ 7. Beth Shammai say, "Spices may be pounded on the festival with a wooden pestle only, and salt with an earthenware jug, or with a large wooden spoon." But Beth Hillel say, "Spices may be, as usual, pounded with a stone pestle, and salt with a wooden spoon."

§ 8. When a person picks pulse on the festival, he may, according to Beth Shammai, only pick out the eatable part and eat it; but according to Beth Hillel he may pick it as usual in his lap, in a basket with holes, or in a large dish, but not on a large table, or through a small or large sieve. Rabbon Gamaliel says, "It is lawful to pour water thereon, and remove the part not fit to eat, by hand."

§ 9. Beth Shammai teach, "that it is unlawful for one person to send to another as a present on the festival, any thing but eatables."[5] Beth Hillel permit to send even cattle, game, and poultry,[6] either dead or alive; also, presents of wine, oil, fine flour, and pulse, but not grain.[7] But R. Simeon permits also to send grain.[8]

§ 10. It is also lawful to send clothes, sewed or not, even of "Kilaim," in case they are used on the festival, but not sandals with iron nails,[9] or unsewed [unfinished] shoes. R. Jehudah says,

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[4] And consequently there is no similarity between them, inasmuch as the obligation to separate the heave-offering cannot be incurred on the festival it being unlawful to go to the heap of corn for that purpose (see further ch. V), but the other gifts, such as חלה, &c. *may* become obligatory, inasmuch as it is permitted to kill cattle, and to make dough on the festival.

[5] In slices, or pieces. [6] The whole carcase.

[7] Because that requires grinding, which is not permitted on the festival.

[8] He allows it inasmuch as it is possible that a small part may be pounded in a mortar [which is permitted], and be made into a cake, to be eaten on the festival.

[9] On account of an event related in Treatise Sabbath, ch. VII. § 2.

"Neither may white shoes be sent, because they require an artificer to make them fit for use."[10] This is the general rule: whatever can be used on the festival may be sent as a present thereon.

CHAPTER II.

§ 1. When the festival takes place on Friday, it is unlawful to prepare thereon, on purpose, any food for the Sabbath, but for the festival alone, and whatever remains, remains for the Sabbath, and a person ought to prepare on the day before the festival, somê article of food on account of the Sabbath,[1] and cook [additionally on the festival] in reference to it. Beth Shammai say, "It is necessary to prepare two articles of food." But Beth Hillel say, "One dish is sufficient." They agree, however, that fish with egg on it may be considered as two dishes. If the food thus prepared has been eaten, or lost [previous to the cooking of the food for the Sabbath], nothing more may be cooked in addition on account thereof; but if a small part of it had been left, more food may be cooked in addition, and on account thereof, for the Sabbath.

§ 2. When the festival happens immediately after the Sabbath, Beth Shammai say, "Every thing requiring purification must be immersed before the Sabbath." But Beth Hillel say, "Vessels must be immersed before the Sabbath, and human beings on the Sabbath."

§ 3. Both schools agree, that water which has become polluted, may be purified by putting it into an earthenware vessel, and bringing it in contact with the waters of a bath, but not in an unclean vessel. It is lawful, however, to immerse vessels whose original appropriation

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[10] In the country or place of R. Jehudah white shoes were not worn (Bartenora).

[1] This is what is known by the name of ערובי תבשילין, or "Mixture of the cooking, or preparation of food," of which the following account and reason are given by Maimonides: "The Rabbins, in order to prevent cooking, or preparation of food on thê festival for the following working-days, have prohibited it even for the Sabbath immediately following [and of course for a working-day]. They have ordered, however, that some article of food should be prepared on the day before the festival, to which more may be cooked in addition on the festival, which has been ordered with the intention of reminding the general mass that it is not lawful to prepare any food on the festival which is not eaten thereon. It is called ערוב, or mixture, because it mixes or combines the preparation of food necessary for the festival, with that required for the family's use on the Sabbath" (Maim. Hilchoht Yom Tob, ch. VI. and the השגה of הראב"ד).

has been altered,[2] and men may bathe when they have changed from one company to another [to eat the Paschal lamb].[3]

§ 4. Beth Shammai say, "A person may bring peace-offerings on the festival, but he may not impose his hands upon them;[4] neither may [a private individual] bring burnt-offerings thereon." But Beth Hillel allow the bringing of peace and burnt-offerings, and the imposition of hands upon them.

§ 5. Beth Shammai teach it to be unlawful to boil water on the festival for the purpose of washing the feet, unless the water is also fit to drink. But Beth Hillel allow it. A person may also light a fire for the sole purpose of warming himself by it.

§ 6. In three things Rabbon Gamaliel decides in aggravation [i. e. prohibiting], like the school of Shammai: viz. "It is prohibited to cover or place the pots of victuals in a hot place on the eve of the festival [so as to retain their heat]; as also on the Sabbath; to put together on the festival a disjointed lamp, and to bake thereon large loaves, but thin cakes only." Rabbon Gamaliel said, "They never used in my father's house to bake large loaves on the festival, but thin cakes only." But the sages said unto him, "What proof does this practice of your father's family afford, who, although strict themselves in this respect, did nevertheless allow all Israel to bake on the festival, large loaves and thick pieces of dough [or cakes]?"

§ 7. He [Rabbon Gamaliel] decided in alleviation [that is, permitting] in respect to the three following things: he allowed to sweep on the festival between the couches or sofas[5] [after dinner], to put perfume on the coals [after dinner],[6] and to prepare a complete[7] kid on the nights of Passover; but the sages prohibit all these.

§ 8. Rabbi Eleazar ben Azariah permitted three things, which the other sages prohibit: his cow was allowed to go out on the Sabbath with a strap attached to her horns,[8] he held it also to be

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[2] If a person has immersed vessels to be used for oil for common use, and wishes afterwards to use them for sacred purposes [such as putting in them wine of heave-offering, &c.], a fresh immersion will be required.

[3] See Treatise Pesachim, chap. IX.

[4] Leviticus i. 4.

[5] The cushions on which the ancients reclined to eat.

[6] Also an ancient eastern custom, which burning, not being strictly necessary, is prohibited by the sages on the festival.

[7] Complete, with its head, legs, and entrails, on the roasting spit, and in the same manner as the roasting of the Passover lamb is prescribed.

[8] See Treatise Sabbath, chap. V. § 4.

lawful to curry cattle on the festival, and to grind thereon pepper in a pepper-mill. R. Jehudah says, "It is not lawful to curry cattle on the festival, because a wound may be inflicted [by the teeth of the iron currycomb], but they may be curried with a wooden comb." The Rabbins decide it to be unlawful to curry cattle either with an iron currycomb or with a wooden comb.

§ 9. A handmill, used to grind pepper, is liable to contract pollution in the three separate vessels of which it is composed: namely, as a vessel of capacity,[9] as a metal vessel,[10] and as a vessel of the sieve kind.[11]

§ 10. A child's cart is liable to contract pollution through pressure,[12] and may be moved on the Sabbath from place to place; yet it may only be dragged over clothes or carpets.[13] Rabbi Jehudah says, "It is not lawful to drag any vessel or piece of furniture on the Sabbath, excepting such a [light] cart, because it only makes a slight impression on the ground [and does not remove the soil so as to make a furrow]."

CHAPTER III.

§ 1. It is prohibited to catch fish from ponds on the festival, or to feed them on that day;[1] but it is lawful to catch wild animals or fowls in enclosed parks or aviaries, and to provide them with food.[2] Rabbon Simeon, son of Gamaliel, says, "All fish-ponds and enclosures are not [to be considered in] the same [light], this is the general rule: if the fish or animals therein require [on account of its extent], to be chased, or some device to be used, in order to take them, they may not be taken on the festival; but it is lawful to take them if they do not require such pursuit or device to be used."[3]

§ 2. It is unlawful to take on the festival from nets which have been spread on the previous day, any fish, wild animal, or fowl, which may have become entangled therein, unless it is known

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[9] The lower part, where the ground pepper is collected.

[10] The upper part, where the whole pepper is put in.

[11] The middle part, which allows only the finely ground particles to pass through.

[12] See Mishna, order Taharoth.

[13] In order to avoid making a furrow on the ground.

[1] Because they may without injury be left for a day without being fed.

[2] Because they are dependant on man for food.

[3] That is, when in small ponds, aviaries, or enclosures where they may easily be taken, and are considered as מוכן prepared for the festival.

that they had been caught in the nets previous to the commencement of the festival. It once happened that a heathen brought, on the festival, a present of fish to Rabbon Gamaliel; when the latter said, "It is lawful to use them, but I do not wish to accept presents from that man."

§ 3. It is unlawful to kill on the festival any animal labouring under a mortal disease, unless there is time to eat thereof on that day, the [*minimum*] quantity of the size of an olive of roasted meat; Rabbi Akivah allows it, if there be only sufficient time to eat thereof a piece of the size of an olive of raw meat, even in the very place in which it is slaughtered. If it had been killed in the fields, the whole [carcase] may not be carried home on a staff or stick, but piecemeal, by hand.

§ 4. If a first-born animal[4] fall into a pit or hole on the festival, [and the owner is afraid it should die there], R. Jehudah says, "An expert person must go down, and see whether it had [already] an incurable and permanent injury, in which case, it may be drawn up and killed, but not otherwise." Rabbi Simeon says, "If the defect or injury had not been known [for *certain*] to exist thereon, previous to the festival, and to be of a permanent nature, the animal cannot be considered as *prepared* for the feast."

§ 5. An animal [consecrated for sacrifice] which had died on the festival, may not be removed thereon. It happened once, when Rabbi Tarphon was questioned on the subject, and also concerning a separated piece of dough [חלה] which had become polluted, he went to the בית המדרש [college of the Rabbins] and enquired: they told him, "They may not be removed from the spot."

§ 6. An association for the purpose of jointly purchasing an animal, may not be formed on the festival; but if it was made before the festival, the animal so purchased may be slaughtered and shared on the festival. Rabbi Jehudah says, "It is lawful to weigh meat against a vessel or hatchet;"[5] but the sages say it is unlawful to use the scales at all.[6]

§ 7. Knives may not be ground or set on the festival; but it is

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[4] This treats of a first-born animal which had some bodily injury, but which had not yet been shown to expert persons to decide whether the injury was permanent and incurable, in which case it was not consecrated, and might be used.

[5] After the festival the vessel or hatchet is weighed, and the meat paid for accordingly, but it is not lawful to use the ordinary weights on the festival.

[6] Even to keep meat in, or for a similar purpose.

lawful to sharpen one knife with the other. It is not allowed to say to a butcher, "Weigh, or sell me for a denar's[7] worth of meat," but [the butcher] has the animal killed, and shares it among[8] [his customers].

§ 8. One person may say to another [on the festival], "Fill me this vessel," but it must not be a vessel appropriated to measure with. R. Jehudah says, "If a measure is used, it must not be quite filled." Abba Saul, the son of Botnit, used to fill his measures on the day before the festival, and delivered them to his customers on the festival; Abba Saul says, "He used to do so even on the middle-days,[9] on account of the froth in the measure;"[10] the sages say he even did so on week-days, in order to let out the entire contents of his measure into the vessels of his customers.[11] It is lawful to go to a shop-keeper, with whom one is used to deal, and to say to him, "Give me so many [mentioning the number] eggs or nuts," because the master of a house is used to count similar articles by number.

CHAPTER IV.

§ 1. In transporting jars of wine from one place to another, on the festival, care must be taken not to remove them in a basket or case,[1] but they must be removed on the shoulder, and carried in front of the person;[2] and if any one should thereon carry any straw, he must not carry it in a basket over his shoulder, but must carry it in his hand. It is lawful to commence taking, on the festival, of a heap of straw [to burn], but not of the pieces of wood lying in the yard behind the house.

§ 2 Wood may not be taken from a shed, but the pieces adjoining it [i. e. loosely placed against it] may be used; it is lawful also to

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[7] An ancient coin, a denarius.

[8] But neither money nor weight may be mentioned or used in the transaction.

[9] Because he was engaged all day in the study of the law with those who came to celebrate the festival.

[10] Being exceedingly scrupulous, he used to fill his measures, and let them remain all night, that the froth might subside, and in the morning he filled them up with wine, that his customers might have their full measure of wine.

[11] When he sold oil he used to let his measure drain all night into the vessel or utensil of his customer, that not a drop might adhere to the sides or bottom of his own measure.

[1] Many at a time as on working days.

[2] That is, a few at a time, and in a manner different from the usual mode.

fetch it from a wood-stack in a field, and from a wood-store, and even to gather the dispersed pieces of wood therein. What constitutes a store? R. Jehudah says, "When it is near the city, and is enclosed." Rabbi José says, "When it is entered by a door that can be locked, even if it should be situated at the extreme end of the תחום, or Sabbatical limit."

§ 3. It is not permitted to cut wood from new beams, nor from an old beam which happened to break on the festival, neither may wood [allowed to be used] be cleft on the festival with an axe, saw, or bill-hook, but with a chopping-knife only; when there is a hole in the brick-walls of a place used to store fruit in,[3] it will be lawful to remove the fruit from that open part: but Rabbi Meir says, "It is even lawful to remove the bricks to get at the fruit, and to remove it."

§ 4. It is not permitted to make a cavity in a lump of potter's clay for the purpose of using it as a lamp, because a utensil is thereby formed; neither may charcoal be made on the festival, nor the wick of a lamp be cut in two. R. Jehudah says, "When the ends have been placed in two lamps, it is allowed to separate them by burning the middle part."

§ 5. It is not permitted to break pieces of earthenware[4] on the festival, or to cut paper to be placed over salted fish while it is broiled;[5] neither may the fallen mortar be removed on that day from the oven, but it is lawful to press it close. Two barrels may not be brought near each other to be used as a trivet to place a pot on them over the fire, neither may a piece of wood be used for the purpose of supporting a pot or a door;[6] nor may cattle be driven on the festival with a stick: but R. Eleazar, son of Simeon, permits it.

§ 6. Rabbi Eleazar says, "A person may take a splinter from the wood lying near him, to clean his teeth with, and gather in the yard small pieces of wood and burn them, because whatever is in the yard may be considered as מוכן prepared for the festival." But the sages

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[3] The Mishna treats here of a store, or enclosed place, whose walls consist of loose bricks, without mortar or lime.

[4] Used anciently to place under fish, &c. that it might not be burned, and adhere to the metal pan in which they were cooked.

[5] According to some commentators, it refers to an ancient practice of wrapping the salt fish to be broiled in papers steeped in oil, or according to others, in water, to prevent the burning of the fish.

[6] The permission to use wood on the festival being given only for the purpose of preparing food, i. e. as fuel, it may not be used for any other purpose.

allow those pieces only to be picked up which lay near to a person, and for the purpose of burning them only.

§ 7. Fire may not be produced on the festival from wood,[7] stones,[8] dust, or earth,[9] or from water;[10] neither is it lawful to heat tiles to broil food thereon. Rabbi Eleazar also said, "A person may place himself on the eve of the Sabbath, in a seventh or Sabbatical year,[11] in the places where figs or raisins are kept, and say, From these will I eat to-morrow." But the sages say he must point out the exact spot, and say, "I will take from here till there."

CHAPTER V.

§ 1. It is lawful to let down fruit on the festival by a trap-door, and to cover fruit, and jars containing oil, to protect them from water dripping thereon; but this may not be done on the Sabbath. It is nevertheless lawful to place a utensil under a dropping vessel on the Sabbath [to prevent the waste of the liquor].

§ 2. In whatsoever a person transgresses and infringes the precept of resting on the Sabbath [שבות], whether in doing any optional action,[1] or a legal action,[2] he will also transgress, if he does them on the festival. The following actions are prohibited on account of the precept to rest [שבות]:—It is prohibited to climb trees, to mount any animal, to swim on the waters, to clap with the hands,[3] to strike on the hips,[4] or to dance. The following are prohibited as optional

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[7] By friction and rubbing two pieces against each other, as is done by the American savage.

[8] By striking hard stones with steel, &c.

[9] There are some soils covering subterraneous fires, or containing so much sulphur and inflammable substance, that they will spontaneously ignite, particularly on being stirred with a spade, &c.

[10] This is explained by Bartenora, and other commentators of the Mishna, as being effected by means of the sun's rays on a crystal vessel filled with water, probably a burning lens, but the means by which the water was ignited is not mentioned, nor is it probable that the water itself was ignited at all; perhaps it was used as a lens to collect the rays of the sun. Maimonides (chap. IV. of Treatise Yom Tob, in Yad Hachazaka, vol. 1) seems to be doubtful on this subject, and explains it as referring to the volatile parts of naphtha floating on water, which, by agitation in the sun's rays, will enflame and light tinder, &c.; but it is by no means intelligible what the Mishna here *really* means.

[11] In which there is no tithe to be separated.

[1] Actions proper to be done, but not strictly necessary.

[2] Actions legally enjoined, but prohibited to be done on the Sabbath.

[3] As a sign of rejoicing.

[4] As a mark of despair, or mourning. (Compare Jeremiah xxi. 19.)

actions:—It is unlawful to administer justice, to acquire a woman as a wife [by giving her a ring, money, &c.], and to perform the ceremony of taking off the shoes of one that refuses to marry the widow of his deceased brother (Deut. xxv. 5, &c.), or to marry such a brother's widow. The following are prohibited as legal actions:—It is not permitted to consecrate any thing, to value sacred things, to pronounce any thing as devoted [to the service of the temple], and to separate heave-offerings and tithes; all these actions have been decided to be prohibited to be done on the festival, and *a fortiori* on the Sabbath. There is no difference between the Sabbath and the festival, except that the preparation of food is permitted on the latter.

§ 3. Cattle and utensils may be brought as far only as their owners may go,[5] and when a person commits his cattle to his son or shepherd, they may not be brought or driven further than the owner may go. Utensils that are appropriated to the exclusive use of one among brethren living together in the same house, may be brought as far as that brother may go; but if they are not thus exclusively appropriated to one only, they may be brought to the places where all may go.

§ 4. A utensil that had been borrowed since the day before the festival, may be carried as far as the borrower may go; but if on the festival, as far as the lender may go: and when one woman has borrowed of another spice, water, or salt, to make dough, they may be carried as far as both may go. Rabbi Jehudah excepts water, because its substance does not remain visible.

§ 5. Burning coals may be carried as far as the owners thereof may go, but a flame may be carried everywhere. If a coal of consecrated fire be applied to profane use, the sin of desecration has been committed,[6] and although no profane use may be made of the flame of a sacred fire, yet the person who thus applies it has not incurred the penalty, and thus, if any person carries [on the Sabbath] a burning coal into a public place, he is guilty, but does not incur the penalty for a flame only. The waters of a well belonging to a private individual, may be carried as far as that person may go, but if it belonged to a town, as far as the inhabitants thereof may go. The waters of a well made for the use of travellers [such as those] who

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[5] This and the following sections can only be understood by a reference to what is laid down concerning the Sabbatical limits תחום שבת, in Treatise Erubin.

[6] And the person who has thus used it must bring the sacrifice called קרבן מעילה.

come from Babylon, may be carried as far as the person who draws them may go.

§ 6. If a person has fruit in another town, whose inhabitants have made an erub [Sabbatical mixture] in order to bring him something [on the festival], they may not bring him any of his own fruit, but if he has made the erub himself, the fruit may be carried to any place he is allowed to go.

§ 7. When any person has invited guests[7] [on the festival], they may not carry home with them any food, unless he has on the day before the festival granted the guests a right of possession to their portions.[8] It is not lawful to give drink to, or to slaughter, animals living free [not under the control of man], but it is allowed in respect to domestic animals. The animals which at night are in town, or in the suburbs thereof, are considered domestic; and those which lie at night in the open field[9] are called animals living free [i. e. not under the immediate care of man].

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[7] This treats of guests living in another place, who have made erub to be able to go to the residence of their host.

[8] By expressing himself to that effect to some person on that day: in which case the guests, although not present, gain a right to their portions.

[9] Beyond the תחום, or Sabbatical limits, and remain there during the summer months.

XIX. TREATISE ROSH HASHANAH,

OR, OF THE NEW YEAR.

Introduction.

In this Treatise are enumerated various periods of commencement of the year for different objects, during the existence of the second Temple. The mode of determining the day of the feast of new moon from the observation of witnesses, as also the manner of examining them, and other matters incident thereunto, is related next; and finally, this Treatise treats of the feast of new year, and whatever is peculiar to it, such as the sounding of the cornet שופר, and the prayers and service of that festival.

CHAPTER I.

§ 1. There are four periods of commencement of years: viz.— on the first of Nissan is a new year for [the computation of the reign of] kings,[1] and for festivals;[2] the first of Elul is a new year for the tithe of cattle,[3] but according to R. Eleazar and R. Simeon, it is on the 1st of Tishri. The 1st of Tishri is New Year's [day] for the ordinary or civil year, for the computation of the seventh years [or years

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[1] The reign of Jewish kings, whatever the period of accession might be, was always reckoned from the preceding Nissan; so that if, for instance, a Jewish king began to reign in Adar, the following month [Nissan] would be considered as the commencement of the second year of his reign. This rule was observed in all legal contracts, in which the reign of kings was always mentioned.

[2] This is in respect to a person who has neglected to observe his vow, the period of which neglect may not extend above three festivals from the time of the vow, of which the festival in Nissan, or Passover, is the first.

[3] In order to keep the tithes of different years distinct.

of release][4], and of the jubilees; also for the planting of trees,[5] and for herbs.[6] On the first of Sebat is the new year for trees,[7] according to Beth Shammai; but Beth Hillel say, "it is on the fifteenth of the same month."

§ 2. The world is judged at four periods in each year; on passover, in respect to the growth of corn;[8] on the feast of weeks, concerning the fruit of trees; on the feast of new year, when all human beings pass like lambs before God's throne, in order to be judged; as it is said (Ps. xxx. 9), "He who hath fashioned all their hearts, understandeth all their works;" and on the feast of tabernacles judgment is passed concerning the water [or rain].

§ 3. Messengers were sent out[9] for the following six months: for Nissan, on account of the Passover; for Ab, on account of the fast; for Elul, on account of the feast of new year; for Tishri, on account of the regulation of the festivals;[10] for Kislev, on account of the feast of dedication; for Adar, on account of the feast of lots; and also for Iyar, during the existence of the second Temple, on account of the little [or second] Passover.

§ 4. For the new moons of two months [the witnesses] may profane the Sabbath:[11] viz. for those of Nissan, and of Tishri; because, on these months only, the messengers went to Syria, and the festivals are regulated by them; and during the existence of the Temple it was lawful to profane the Sabbath for any month, on account of the regulation of the offerings [on the feast of new moon] in their proper day.

§ 5. Whether the moon had been seen high on the horizon,[12] or had

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[4] When the land must lie fallow. (Lev. xxv., Deut. xv. 12, &c.)

[5] In respect of the עֲרלה, or prohibition of eating of the fruit of newly planted trees. (See Lev. xix. 23—25, and Mishna Treatise, עֲרלה.)

[6] In order not to mix the tithe of herbs of one year with that of another.

[7] In respect to the tithe due of fruit trees.

[8] Whether the coming year should be a favourable one in respect to the growth of corn, fruit, the descent of fructifying rain, &c.

[9] From Jerusalem, to announce to other places the day on which the Sanhedrin had fixed the day of the last new moon.

[10] The day of Atonement, and feast of Tabernacles; inasmuch, as it was possible that the Sanhedrin might have made the preceding month Elul intercalary כִּעִבּוּרת.

[11] To travel thereon to Jerusalem, to acquaint the Sanhedrin of their having seen the new moon.

[12] When it is to be supposed it had also been seen at Jerusalem; and that, consequently, the Sabbath need not be profaned by the witnesses travelling thereon to Jerusalem.

not appeared thus high, the Sabbath may be profaned [by the witnesses]. R. José says, "If the moon appeared high on the horizon the Sabbath may not be profaned by them [to announce it]."

§ 6. It happened once, that more than forty pair of witnesses passed through on the Sabbath, when R. Akivah detained them at Lydda [לוד]; Rabbon Gamaliel then sent word, saying, "If thou thus detainest the people, thou wilt be the cause of their straying in future" [they will refuse to come].

§ 7. When father and son have seen the new moon, they must both go to the tribunal of judgment [Beth Din], not that they may be combined together to act as witnesses, but in order that, should the evidence of either of them be invalidated, the other may join to give evidence with another witness. R. Simeon says, "Father and son, and relatives in every degree, may be allowed as competent witnesses to give evidence as to the appearance of the new moon." R. José says, "It once happened that Tobias the physician, his son, and his freed slave, saw the new moon in Jerusalem, [and when they tendered their evidence] the priests accepted his evidence, and that of his son, but invalidated that of his freed slave; but when they appeared before the 'Beth Din,'[13] they received his evidence, and that of his freed slave, but invalidated that of his son."

§ 8. The following are considered incompetent witnesses: gamblers with dice, usurers,[14] pigeon-breeders,[15] those who trade in the produce of the Sabbatical year, and also slaves. The rule is, that all evidence that cannot be received from a woman cannot be received from any of these.

§ 9. A person who has seen the new moon, but is unable to go [to give evidence], must be brought [if unable to walk] mounted on an ass[16] or even in a bed. Persons afraid of being waylaid by robbers may take sticks with them;[16] and if they have a long way to go, it will be lawful for them to provide for themselves, and carry their food.[16] Whenever [witnesses] must be a day and a night on the road, it will be lawful to profane the Sabbath to travel thereon, to

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[13] The tribunal of judgment—the Sanhedrin.

[14] This includes all games of hazard; usurers and gamblers being considered as reputed thieves. (See Sanhedrin, c. iii.)

[15] Those who breed and train pigeons for gambling purposes; such as, betting on their velocity of flight, or to train them to entice the pigeons of others to the dovecote, &c.

[16] Even on the Sabbath.

give their evidence as to the appearance of the new moon. For thus is it written (Lev. xxiii. 4), "These are the feasts of the Lord, the holy convocations, which *ye* shall proclaim in their appointed seasons."

CHAPTER II.

§ 1. If a witness was unknown, others were sent with him to testify concerning his character. Formerly, evidence as to the appearance of the new moon was received from any one; but when the heretics corrupted [the witnesses],[1] it was ordained, that evidence should be received only of those whose good character was well known.

§ 2. Formerly fires were lighted on the tops of the mountains [to announce the appearance of the new moon]; but when the Samaritans led the nation into error,[2] it was ordained that messengers should be sent out.

§ 3. In what manner were these mountain fires lighted? They brought long staves of cedar wood, canes, and sticks [or branches] of the olive tree, also the coarse threads, or refuse of flax, which were tied on the top of them with twine; with these they went to the top of the mountain, and lighted them; and kept waving them to and fro, upward and downward, till they could perceive the same repeated by another person on the next mountain, and thus on the third mountain, &c.

§ 4. Whence did these mountain fires commence? From the Mount of Olives to Sartaba,[3] from Sartaba to Grophinah, from Grophinah to Hoveran, from Hoveran to Beth Baltin; they did not cease to wave the flaming brands at Beth Baltin to and fro, upward and downward, until the whole country of the captivity[4] appeared like a blazing fire.[5]

§ 5. There was a large court in Jerusalem called Beth Yangzek, where all the witnesses met, and where they were examined by the Beth Din. Great feasts [or treats] were made for them there, in order to induce them to come often. At first they did not stir from

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[1] Bribing them to give false evidence to mislead the Sanhedrin.

[2] By their lighting these firebrands or beacons on the mountains at wrong times, to make a mockery of, or to mislead, the Jews.

[3] This and the following are the names of the various mountain stations.

[4] Babylon.

[5] As every Jew used to go on his roof waving a blazing torch.

that place all day [on the Sabbath],[6] till the elder Rabbon Gamaliel ordained that they might go 2000 cubits [amoth] on every side;[7] and not only these, but also the midwife, going to give her professional assistance, and those who proceed to another place to assist the inhabitants in case of fire, attack of enemies, inundation, or to save people from under the ruins of fallen buildings, are considered as inhabitants of that place, and may go from thence [on the Sabbath] two thousand [amoth] cubits on every side.

§ 6. In what manner was the examination of the witnesses conducted? The first pair were always examined first. The eldest of them being introduced first, the following questions were put to him: "Tell us in what form you saw the moon; was it with her horns turned towards the sun, or away from it? To the north or to the south [of the sun]? What was her elevation on the horizon? Towards which side was her inclination? What was the width of her disk?" If he said towards the sun, his evidence went for nothing. The second witness was then brought in, and examined; if the evidence was found to agree, their testimony was received as valid. The remaining pairs of witnesses were then superficially examined, not because there was any necessity for their evidence, but only not to disappoint them,[8] and also to encourage them to come another time.

§ 7. The chief of the tribunal [בית דין] then said, the feast of the new moon is mekoodash [consecrated]; and all the people said after him, "Mekoodash, mekoodash." Whether the new moon had been seen at the proper time or not it was consecrated. R. Eleazar, son of Zadok, said, "If it had not been seen at its proper time, it was not consecrated, because it had already been consecrated in heaven."

§ 8. Rabbon Gamaliel had, on a tablet, and on the walls of his room, various delineations of the figure and aspect of the moon, which he shewed to ignorant witnesses, asking them, "Was it of this figure, or of that?" It happened once, that two witnesses came and said, "We saw the moon in the eastern part of the heavens in the morning, and in the western part in the evening." R. Johanan ben Nourri declared them to be false witnesses; but when they came to

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[6] If they arrived on that day, when, according to law, they could only go four "amoth."

[7] See Treatise Erubin, chap. IV.

[8] As it would afflict them to be sent away without being examined by the Beth Din, and to have taken their journey in vain.

Jamnia [יבנה], Rabbon Gamaliel received their evidence as valid. Two other witnesses came and said, "We saw the moon on its proper day,[9] but could not see it on the next evening of the intercalary day;"[10] and R. Gamaliel received them: when R. Dosah, son of Arkenaz, said, "They are false witnesses; for how can they testify of a woman being delivered [on a certain day], when, on the next day, she appears yet with every sign of pregnancy?"[11] Then R. Joshua said unto him, "I approve your opinion."

§ 9. Upon this Rabbon Gamaliel sent him [R. Joshua] word, saying, "I order you[12] to appear before me on the day of Atonement, according to *your* computation, with your staff and [purse of] money in your hand."[13] R. Akivah went to him [R. Joshua], and found him grieving, he said then to him, "I can prove that all Rabbon Gamaliel has done is [well] done, for it is said, 'These are the feasts of the Lord, holy convocations which *ye* shall proclaim,' either at their proper time, or not at their proper time, *their* convocations are to be considered as holy festivals." When he [R. Joshua] came to R. Dosah ben Arkenaz, the latter told him, "If we are to reinvestigate the decisions of the tribunal of Rabbon Gamaliel, we must also reinvestigate the decisions of all the tribunals of justice which have existed from the time of Moses till the present day; for it is said, (Exod. xxiv. 2), 'Moses, Aaron, Nadab, Abihu, and seventy elders went up [to the Mount].' Why were not the names of the elders also specified? To inform us, that every three men in Israel that form a בית דין [tribunal of justice] are to be respected in an equal degree with the tribunal of Moses." Then did R. Joshua take his staff and money, and went to Jamnia, to Rabbon Gamaliel, on the

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[9] On the night of the thirtieth day of the month.

[10] The thirty-first day since the first of last month, and the second or intercalary day of the feast of the new moon.

[11] In the original, "with her belly up to her teeth."

[12] Rabbon Gamaliel was prince of the Captivity, and chief of the Sanhedrin.

[13] It is unlawful to carry a purse on the day of Atonement; but, according to the computation of R. Joshua, the day of Atonement would be a day too late; for, as he rejected the evidence of the witnesses because they assigned [in his opinion] too short a time for the appearance of the moon after its conjunction with the sun, he would be obliged to add an intercalary day, which would cause the day of Atonement to happen a day later than its proper day; as Rabbon Gamaliel knew, from astronomical observations, that the period between the conjunction and appearance of the moon occurs sooner at one time than at another; and that, therefore, the evidence of the witnesses might be true, and ought not to be rejected.

very day on which the Atonement would have been, according to his computation; when Rabbon Gamaliel arose, and kissed him on his [fore] head, saying, "Enter in peace, my master and disciple! My master—in knowledge; and my disciple—since thou didst obey my injunction."

CHAPTER III.

§ 1. If the Beth Din and all Israel saw the new moon,[1] or if the examination of the witnesses had already taken place, but it had become dark before the word "Mekoodash,"[2] was pronounced, the month will be intercalary. When the Beth Din alone saw it,[3] two of its members must stand up before the others as witnesses,[4] who shall then say, "Mekoodash, Mekoodash." When only three forming a Beth Din have seen it, two of them must stand up as witnesses, and conjoin some of their learned associates with the single one,[5] and then give their evidence before these, who are to say, "Mekoodash, Mekoodash," because a single member of a Beth Din has not this faculty by himself alone.

§ 2. Every kind of horn may be used [as a shophar, or cornet] on the feast of new year, excepting that of a cow, because it is called קרן in Scripture.[6] Rabbi José remarked, "Surely all shophars are called קרן in the text;" for such is the expression in Joshua vi. 5, במשוך בקרן היובל.

§ 3. The cornet used in the temple on the feast of the new year, was a straight horn of a chamois,[7] the mouth-piece of which was covered with gold, the two trumpets[8] were stationed on each side, the sound of the cornet was prolonged after that of the trumpets had ceased, because the obligation of the day applies more particularly to the sounding of the cornet.

§ 4. On the fast days, two crooked ram's-horns were used, whose mouth-pieces were covered with silver, and the two trumpets were stationed in the middle between them; the sound of the trumpets was prolonged after that of the horns had ceased, because the obligation of the day applies more particularly to the sounding of the trumpets.

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[1] On the night of the 30th day.
[2] See the preceding chapter, § 7.
[3] This treats of a Beth Din of twenty-three members (see Treatise Sanhedrin).
[4] Namely, the remaining members of the Beth Din.
[5] That is, the third member of the Beth Din.
[6] And not שופר.
[7] A kind of antelope, or wild goat.
[8] See Numbers x.

§ 5. The year of jubilee is like the feast of new year, in respect to the sounding and the blessings. R. Jehudah says, "On the feast of new year a ram's-horn was sounded, and on the year of jubilee the horn of a chamois."

§ 6. It is unlawful to use a shophar which had been rent, and afterwards joined again together; also one composed of several pieces joined together. If a shophar had a hole which had been closed, if it hinders the proper sound, it may not be used; but if it does not affect the proper sound, it may be used.

§ 7. If any one should sound the shophar within a hole, a cistern, or in a large vessel of clay [or earthenware]—if the person who listens to the sounding should plainly hear the sounding of the shophar, he will have acquitted himself of his obligation,[9] but not when he only hears the reverberation, or echo of that sound; and thus, if a person passes by the synagogue, or living close to it, should hear the shophar [on the feast of new year], or the reading of the book of Esther [on Pureem], he will have acquitted himself of his obligation, provided he has paid proper attention, but not otherwise; and although one person should hear it as well as another, yet the difference [on which all depends] is, that *this* person paid due attention, and the other did not.

§ 8. [In this manner we find it stated in Scripture, that] "When Moses held up his hand, then Israel prevailed," &c. (Exod. xvii. 11.) Could the hands of Moses animate the contest, or cause it to cease? But it was thus: whilst Israel looked to heaven for aid, and subjected their will to their heavenly Father, they prevailed, but when they ceased to do so, they failed. A similar instance we find (Numbers xxi. 8), "Make thee a fiery serpent, and set it on a pole, and every one that is bitten when he looketh upon it shall live." Could this serpent kill or bring to life? But it was thus: when the Israelites looked to heaven for aid, and subjected their inclination to the will of their heavenly Father, they were cured, but when they did not, they perished. A deaf and dumb, or a foolish person, and a child, cannot relieve others from their obligation by acting for them. This is the rule—all those who are not bound to the performance of a religious duty, cannot release others from their obligation.

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[9] Of hearing, or sounding the shophar on the feast of new year.

CHAPTER IV.

§ 1. When the feast of new year happened on the Sabbath, they used to sound in the sanctuary, but not out of it. After the destruction of the temple, Rabban Jochanan, son of Zaccai, ordained that they should sound in every place in which there is a tribunal of justice [בית דין]. R. Eleazar says, "He only issued this ordinance in respect to Jamnia," but they [the other sages] said unto him, "It was the same for Jamnia as for any other place in which there is a permanent tribunal of justice."

§ 2. And in this respect also, was Jerusalem privileged above Jamnia,[1] viz. that every city from whence Jerusalem could be seen and the sounding heard, which was near enough, and to which it was allowed to go on the Sabbath, might sound; but in Jamnia it was only permitted to sound before the tribunal of justice.

§ 3. Formerly the loolab [palm-branch, &c] was taken seven days in the sanctuary, and only one day out of it. After the destruction of the temple, Rabban Jochanan, son of Zaccai ordained, "that the loolab should everywhere be taken for seven days, in commemoration of the sanctuary," also, "that the whole day of the waving [of the 'Omer'[2]] it should be prohibited [to eat of the new corn]."

§ 4. Formerly evidence as to the appearance of the new moon was received the whole [of the thirtieth] day; but as it once happened that the witnesses delayed coming, which interrupted the Song of the Levites[3] [at the evening sacrifice], it was ordained that witnesses should be admitted till the time of Minchah only, and if any came after that time, that and the following day were kept as holy. After the destruction of the temple, Rabbon Jochanan, son of Zaccai ordained, "that evidence as to the appearance of the moon should be

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[1] Here is evidently a hiatus in the text of the Mishna, which the commentators have thus supplied from the context; "They used to sound in the whole city of Jerusalem till the sixth hour [i.e. as long as the Sanhedrin sat in the temple to teach], but in Jamnia, before the tribunal only, and not in the town. And in this respect also," &c.

[2] See Leviticus xxii. 11—15.

[3] For being doubtful whether the witnesses might yet come, and the day be sanctified as Rosh Hodesh, when the festive song of the feast of new moon was to be sung, or that which was used on week-days, in case of the non-appearance of the witnesses; and, therefore, it appears that they did not sing at all on that occasion.

received all day." R. Joshua, son of Korcha says, "This too did Rabban Jochanan, son of Zaccai ordain, viz. that wherever the chief of the tribunal might be, the witnesses need only go to the place of meeting [of the Sanhedrin[4]]."

§ 5. The order of the blessings to be said on the feast of new year is as follows: the blessings אבות וגבורות וקדשת השם,[5] are said, with which are connected the מלכיות [or series of texts relative to the supreme rule of the Almighty] without sounding the shophar; then, concerning the holiness of the day,[6] after which the shophar is sounded; then follow the זכרונות [or texts relative to the kind remembrance of the Almighty to his creatures], after which the shophar is again sounded. Next follow the שופרות [or texts in which the sounding of the shophar is mentioned], and the shophar is sounded [the third time], he then says, עבודה, הודאה and ברכת כהנים.[7] Such is the opinion of R. Jochanan ben Nourrie: but R. Akivah objected, saying to him, "If the shophar is not to be sounded after the reading of the מלכיות, why are they to be mentioned?" But the proper order is the following:—אבות וגבורות וקדשת השם are said, with which the מלכיות are to be combined; after which, the shophar is to be sounded, then the זכרונות are to be read, and the shophar sounded; next שופרות, and the shophar is again sounded; after which עבודה, הודאה and ברכת כהנים[7] are said.

§ 6. Not less than ten texts of the Holy Scripture relative to מלכיות must be said, ten relating to זכרונות, and ten to שופרות. R. Jochanan ben Nourrie says, "The obligation [of reading these texts] will be duly fulfilled if three only of each [class] have been said, but no texts relating to either [class] containing predictions of punishment are to be used. The texts from the law are to be read first, and the concluding texts are to be from the prophets." But R. José says, "It is sufficient if the concluding verse be one from the law."

§ 7. The second of those who, on the feast of the new year, officiate at the reading desk [תיבה] as ministers of the congregation,[8] shall

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[4] Who might pronounce the word "Mekoodash," although the chief Beth Din was absent.

[5] The three first blessings of the Amidah and Moosaph Abboth is from the beginning till מגן אברהם, Gueboroth commences אתה גבור till כתחיה המתים, and Kedushat Ashem is from thence till האל הקדוש.

[6] Namely, that commencing אתה בחרתנו.

[7] The three last blessings of the Amidah or Moosaph רצה, מודים and שים שלום.

[8] The minister who reads the מוסף is thus called, in reference to the one who read שחרית, and had thus preceded him. It was the custom in the time of the

cause another person to sound the shophar, and on days when the Hallel is read, the first minister[9] must read the Hallel.

§ 8. It is not permitted for the purpose of sounding the shophar on the feast of new year, to go beyond the תחום [Sabbatical limits] to remove a heap of stones,[10] mount a tree, ride on any animal, or swim over the waters [to get a shophar], nor may he cut it [thereon] with any thing that may not be used on account of transgression against the Sabbatical rest [שבות], nor on account of a direct negative commandment of the law; but a person may, if he choose, pour water or wine into the shophar.[11] Children may not be prevented to sound, but, on the contrary, it is lawful to be occupied in teaching them to sound; but he who thus teaches, as also other persons who listen to these sounds, cannot thereby become released from their obligation.

§ 9. The order of sounding the shophar is:—three sounds are blown thrice,[12] the time of duration of the sound of six tekeah's, is equal to that of three terooah's, and that of each tekeah as three sighs or moans. If a person has sounded the first tekeah, and prolonged the sound of the second, so as to be equal to two, it will only reckon as one sound. If a person, after having said all the blessings,[13] has at that moment only obtained a shophar, he shall sound three times tekeah, terooah, and tekeah; even as the minister of the congregation is bound [to say the amidah for himself[14]], so is every individual bound to do so. But Rabbon Gamaliel says, "The minister of the congregation releases the public from their obligation."

Mishna, that two ministers were employed each Sabbath, or festival, one to read שחרית and the other מוסף; the latter is not allowed here to sound the shophar, that it may not interrupt the reading, even as a minister who is a Cohen, is not allowed [for the same reason] to go to the רובן to say the blessing of the priests when officiating as minister. Compare Treatise Berachoth, chap. V. § 4.

[9] That is, he who has read שחרית, the first prayers.

[10] Under which a shophar is buried. [11] In order to clear or improve its tone.

[12] Namely, Tekeah, Terooah, and Tekeah. [13] Of the Moosaph.

[14] And is not released from his obligation by this חזרה, or repetition, which he reads to the congregation.

XX. TREATISE TAANITH,

OR, OF THE FASTS.

Introduction.

This Book treats of public fasts, and the manner in which they are to be observed. These fasts are either *occasional*, or annual and *permanent:* occasional fasts are those instituted as means of public repentance, humiliation, and prayer, to beseech the Almighty's protection and help in respect to some calamity which then had happened, and which fasts, of course, cease with the occasion for which they were ordered. The annual and permanent fasts are those observed on the anniversaries of unhappy events, which, in former periods of the history of the nation, had befallen them.

This Treatise is chiefly occupied with the first kind of fasts above mentioned, particularly with those formerly kept in Palestine on account of a continued drought, which in that, and in other countries having the same climate, is one of the greatest calamities that can happen to the inhabitants; the Mishna, therefore, opens with that subject.

CHAPTER I.

§ 1. From what time is the mention of God's power, as manifested in the descent of rain, to be commenced [in the prayers]? R. Eleazar says from the first day of tabernacles; R. Joshua says from the last day of that festival: for said R. Joshua to [R. Eleazar], "Since the descent of rain on the festival of tabernacles is to be considered an unpropitious event,[1] why should it be mentioned [in the prayers]?"

[1] See Treatise Succah, chap. II. § 9.

To this R. Eleazar answered, "I also am not of opinion that they should be prayed for,[2] but only that they should be mentioned with the words, 'Thou causedst the wind to blow, and the rain to descend in its proper time.'" "If so," replied R. Joshua, "this mention might be made at all seasons of the year."

§ 2. Prayers for rain are not to be said sooner than shortly before the commencement of the rainy season. R. Jehudah says, "The last[3] of the ministers of the congregation who on the last day of the feast of tabernacles officiates at the reading-desk [תיבה], shall mention the rain,[4] but not he who officiates first.[5] On the first day of Passover the first minister still mentions it, but not he who officiates last."[6] Till how long is the rain to be prayed for? R. Jehudah says till after the Passover; R. Meir says till the month of Nissan is passed, because it is said [Joel ii. 23], "And he will cause to come down for you the rain, the early rain and the late rains in the first month."

§ 3. On the third of Mar-Cheshvan[7] prayers for the rain are to be said,[8] but according to Rabbon Gamaliel, on the seventh of the same month, namely, fifteen days after the feast of tabernacles, in order that the last Israelites might have reached the river Euphrates.[9]

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[2] That is, in express terms, such as, "Grant that the rain may descend," &c., but only as it were incidentally mentioned.

[3] Namely, he who reads the מוסף [Additional Service]. See our eighth note page 165, Treatise Rosh Hashanah.

[4] That is, commence to say in the prayers, משיב הרוח ומוריד הגשם, "Causing the wind to blow and the rain to descend."

[5] That is, he who reads the שחרית [Morning Prayers], in the Amidah of which he is not to mention about rain, [משיב הרוח, &c.]

[6] That is, משיב הרוח is still said in the Amidah of שחרית, but not in the מוסף Prayer.

[7] The word מר [Mar] prefixed to the name of the month, is to denote the commencement of the rainy season in Palestine, or because the word מר signifies "a drop."

[8] In Palestine the prayer alluded to is that commencing ברך עלינו, in which rain is prayed for in express terms.

[9] This treats of Israelites who used annually to come to Jerusalem to celebrate the festivals, on the termination of which they returned to their homes out of the Holy Land; prayers for rain were not said till fifteen days after the festival, that they might have time to reach the Euphrates [which bounds Palestine towards the north], without being hindered by the rain on their homeward journey.

§ 4. If the seventeenth of Mar-Cheshvan has come without the rain having yet descended, private individuals[10] commence to keep three fast-days,[11] on the preceding nights of which it is lawful to eat and drink, to work [on the fast-day], to bathe, to anoint the body, to wear [leathern] shoes, and to perform the marriage duty.

§ 5. If the new moon of Kislev has arrived without the rain having yet descended, the tribunal of justice [בית דין] shall order three public and general fast-days, on which it is lawful to eat and drink on the nights preceding them, to work [on the days of the said fasts] to bathe, to anoint the body, to wear [leathern] shoes, and to perform the marriage duty.

§ 6. When these have passed, without their prayers having been favourably answered, the Beth Din shall decree three more public and general fasts, on which it will be lawful to eat and drink on the nights preceding them; but on which it is prohibited to work, to bathe, anoint the body, wear [leathern] shoes, and to perform the marriage duty, the [public] bathing places are also to be closed. Should these fasts also have passed over without their prayers having been favourably answered, the Beth Din shall decree seven more fast-days, which altogether make thirteen public and general fasts, these last fasts differ from the [six] preceding, inasmuch as on them an alarm is sounded [on the shophar], and the shops remain closed, excepting that on Mondays, towards the evening, the shop-shutters [of those who sell articles of food] may be [loosely] leaned on [that is, not fully closed, but in a slanting position], and on Thursdays, they may be entirely taken off, in honour of the [approaching] Sabbath.

§ 7. When these have also passed without their prayers having been favourably answered, they are to lessen or withdraw themselves from engaging in joyful transactions, the erecting of buildings, and planting of gardens for pleasure; from betrothings, weddings, and mutual greetings, like men who are under the displeasure of the Almighty; [pious] private individuals recommence fasting till the end of the month Nissan. When Nissan has elapsed without[12] rain

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[10] Namely, particularly pious individuals, not the general body of the nation.

[11] Namely, Monday, Thursday, and the following Monday.

[12] This is translated according to the text of the Mishna; but the corrected readings have ואם וירדו [not ואם ולא ירדו], "If Nissan has elapsed and rain falls," &c.: that this is the true reading, is evident from the text adduced as proof, in which the Israelites are threatened *with a fall of rain*.

it must be considered as a curse, for thus it is written [1 Sam. xiii. 17], "Is it not wheat harvest to day? I will call unto the Lord, and he shall send thunder and rain."[13]

CHAPTER II.

§ 1. What is the order of the [seven last] fast-days? The ark containing the rolls of the law is to be brought in an open place of the city; ashes of burnt [substances] are to be strewed on the heads of the [נשיא] prince, and of the chief of the tribunal of justice, and other persons shall also put ashes on their heads; the eldest among them shall then address them in heart-moving terms: "My brethren, consider that it is not written in respect to [the repentance of] the Ninevites, that God regarded their having wrapped themselves in sackcloth, and considered their fast-days, but that 'God saw their *acts*, and that they had turned from their evil ways' (Jonah iii. 10), and the tradition of the prophets also is, 'Tear your hearts, and not your garments' (Joel ii. 13)."

§ 2. When they have stood up to pray, they shall place at the reading-desk to minister an old experienced person, who has children, and whose house or family is free [from transgression], so that his mind may be entirely devoted to his prayer: he shall say twenty-four blessings, namely, the eighteen blessings of the daily prayer [Amidah], to which he shall add six more.

§ 3. Which are as follows:—texts of זכרונות and שופרות[1] [the Psalms cxx., cxxi., cxxx., and cii.), "In my distress I cried unto the Lord, and he answered me," &c., "I raise my eyes unto the hills," &c., "Out of the depths have I cried unto thee, O Lord," &c., "A prayer for the afflicted when he is overwhelmed," &c. R. Jehudah says it was not necessary to mention the זכרונות and שופרות, but the following passages instead are to be read, "When there is famine in the land, when there is pestilence in the land," &c. (1 Kings viii. 37), and, "The word of the Lord that came to Jeremiah concerning the dearth," &c. (Jer. xiv.), the concluding blessing is then added to each.

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[13] All the preceding texts for rain, apply solely to the Holy Land, and countries of the same climate.

[1] Texts relating to the kind remembrance of God to his creatures, and those in which the sounding of the shophar is mentioned; the texts of this kind which are read in the מוסף of ראש השנה, are also to be used on this occasion.

§ 4. To the first blessing[2] he shall say [in addition], "May he who answered Abraham on Mount Moriah answer you, and listen to your [petition and] cry on this day. Blessed art thou, O Lord, Redeemer of Israel!" To the second he shall say, "May he who answered our ancestors on the Red Sea answer you, and listen favourably this day to your cry. Blessed art thou, O Lord, who rememberest all things forgotten [by man]!" To the third he shall say, "May he who answered Joshua in Gilgal answer you, and listen [favourably] this day to your cry. Blessed art thou, O Lord, who deignest to listen to the sound of the shophar!" To the fourth he shall say, "May he who answered Samuel in Mizpah answer you, and listen [favourably] to your cry on this day. Blessed art thou, O Lord, who hearkenest to [our] cry!" To the fifth he shall say, "May he who answered Elijah on Mount Carmel answer you, and listen [favourably] to your cry on this day. Blessed art thou, O Lord, who hearkenest to prayer!" To the sixth he shall say, "May he who answered Jonah in the entrails of the fish answer you, and listen [favourably] to your cry on this day. Blessed art thou, O Lord, who answerest in the time of distress!" To the seventh[3] he shall say, "May he who answered David, and his son Solomon, in Jerusalem answer you, and listen [favourably] to your cry on this day. Blessed art thou, O Lord, who hast compassion on the earth!"

§ 5. It happened in the times of R. Halaphta and R. Hanina, son of Teradion, that a minister advanced to the reading-desk and finished the whole of the blessing without any [of the congregation] answering thereupon, "Amen:"[4] [a minister called], "Sound, O priests! sound!" [the minister who said the prayers continued], "May he who answered our father Abraham on Mount Moriah answer you, and listen [favourably] to your prayer this day:" [a minister called] "Sound an alarm, sons of Aaron! sound an alarm!" [the minister

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[2] Commencing ראה נא בעניני, which although not the first in the Amidah, is the first in which the interpolations of the additional part are introduced.

[3] Although but six additional blessings are to be said on these fast-days, yet this is called the seventh, in respect to its being the seventh blessing in which additional matter is introduced; for the first blessing ending גואל ישראל, "Redeemer of Israel," is one of the eighteen blessings of the daily Amidah.

[4] They answered instead, ברוך שם כבוד מלכותו לעולם ועד, "Blessed be the name of the glory of his kingdom for ever and ever," which was the response made in the Temple, where *alone* the sacred name was pronounced.

who said the prayers continued], "May he who answered our ancestors on the Red Sea answer you, and listen [favourably] to your cry this day." When the sages were informed of this, they said, "This was not our custom, except at the eastern door [of the Temple], and on the Temple-mountain [Mount Moriah]."

§ 6. On the three first fasts, the priests who had the weekly watch of the Temple[5] fasted, but not the whole day; and the ministering priests did not fast at all. On the second three fasts, the priests on the weekly duty fasted the whole day; and the ministering priests fasted, but not the whole day. But on the last seven, both classes of priests fasted the whole day. Such is the opinion of R. Joshua; but the sages say, "The three first fasts were not kept by any of the said priests: on the second three, the priests who had the weekly duty used to fast, but not the whole day; and the officiating priests did not fast at all. On the last seven, the priests on the weekly duty fasted the whole day; and the officiating priests fasted, but not the whole day."

§ 7. The priests on the weekly duty may drink wine at night, but not during the day;[6] the officiating priests may not drink it either by day or night. The priests of the weekly watch, and the standing men[7] are prohibited from shaving their beards, and washing their clothes; but, on Thursday,[8] they are allowed to do so, in honour of the [approaching] Sabbath.

§ 8. Wherever it is mentioned in "The Roll of Fasts,"[9] that "no lamentation and mourning is to be made" on certain days, it is also prohibited to do so on the day preceding, but allowed on the day following them; but R. José says, "It is prohibited to do so on the

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[5] The priests were divided into twenty-four משמרות, each of which ministered a week in the Temple; each משמרה was again subdivided into seven בתי אבות, each בית אב officiating on a day in the week, in their regular turn. The בית אב, being thus the active and officiating priests, have permission to fast on only part of the day, that they may be fit for their holy ministration.

[6] This does not relate to the fasts; but *general* regulations are here stated.

[7] A number of Israelites attended at every public sacrifice, as representatives of the general body of the nation, to pray that the sacrifice offered for the nation might be favourably accepted; they are called אנשי מעמד, standing men, because they stood near the priests during the sacrifice.

[8] In order to compel them to come to the Temple clean.

[9] There was a book so called, in which all remarkable days were enumerated. From extracts given in the Mishna, it appears that this book, or roll, was written in Chaldee.

day preceding, and on the day following; where it is said, that 'no fasts are to be kept thereon,' it is allowed to fast on the day preceding and following days." R. José says, "It is prohibited on the preceding, but allowed on the following day."

§ 9. Public fasts are not to be ordered to commence on a Thursday, in order not to raise the price of victuals in the markets;[10] but the first fasts are to be on Monday, Thursday, and [the following] Monday; but the second three fasts may follow on Thursday, Monday, and [the following] Thursday. R. José says, "Even as the first fasts are not to be commenced on Thursday, so also are the second and last fasts not to commence on that day."

§ 10. Public fasts are not to be ordered to take place on the feast of new moon, nor on that of dedication and of lots [pureem]; but if the fast has been already commenced thereon, it need not be broken. Such is the opinion of Rabbon Gamaliel. R. Meir says, "Although Rabbon Gamaliel has said that the fast need not be broken, he agrees that on these days they are not to fast the whole of the day; and thus is it with the [fast of the] ninth of Ab, when it happens on a Friday."[11]

CHAPTER III.

§ 1. The order of fasts above-mentioned applies only when the first fructifying rains do not descend; but when the sprouts degenerate, they shall immediately commence to sound an alarm. It is also to be sounded immediately if there be an interval of forty days between each rain; because it is a general plague on the land, causing dearth.

§ 2. If rain sufficient for the growth of sprouts and herbage has fallen, but not for the growth of trees; or sufficient for the growth of trees, but inadequate to the growth of herbage; or sufficient for both,

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[10] The price of food would rise considerably in the markets, when the sellers conjectured that the accounts received by the Sanhedrin of the existing and probable future distress of the country, through the want of rain, was so serious, as to induce them to order a general fast so near the Sabbath. Another reason why it should not commence on a Thursday is, that this fear of dearth by the sellers, or the advantage they might take of this circumstance, would be increased by an additional demand for food, as the people would have to provide themselves for the evening of the fast, and for that of the following Sabbath.

[11] This cannot happen at present, but might formerly, when the Sanhedrin fixed the day of the Feast of New Moon by the evidence of witnesses who had seen it.

but not to fill the wells, cisterns, and caves, an alarm is immediately to be sounded,

§ 3. And thus if no rain should have fallen over any particular city similar to that which is written (Amos iv. 7), "I caused it to rain upon one city, and caused it not to rain upon another city, one piece was rained upon," &c., [the inhabitants of] such a city must fast, and sound an alarm, and those of the circumjacent places shall fast, but not sound. R. Akivah says, "they are to sound, but not to fast."

§ 4. And thus, when pestilence reigns in a city, or when the [sound] walls fall down, [the inhabitants of] such a city must fast, and sound an alarm: and those of the circumjacent places shall fast, but not sound. R. Akivah says, "they are to sound, but not to fast." What must be considered as a pestilence? When in a city, capable of furnishing five hundred able men, three persons die in three consecutive days, it is a pestilence; less than this is not a pestilence.

§ 5. An alarm is to be sounded in all places for the following plagues:—For a corn-blast, mildew, locusts, caterpillars, attacks of ferocious animals, hosts of armed men; for all these an alarm must be sounded, because they are spreading evils.

§ 6. It once happened, that some elders went from Jerusalem, each to his own place, and they decreed a fast, because a corn-blast, of a size to cover therewith the mouth of an oven, had been seen near Ascalon. They also decreed a fast on account of two children having been devoured by wolves on the other side of the Jordan. R. José says, "it was not because the wolves actually devoured [children], but because they had appeared [in the towns prowling for food]."

§ 7. For the following calamities an alarm is to be sounded even on the Sabbath:—For a city surrounded by enemies; for a flood threatening to inundate the country; for a ship in imminent danger of being wrecked at sea [in a storm]. R. José says, "This sounding is to be, to obtain assistance [from men], not as an imploring cry [to God]." Simeon the Temanite says, "They shall also sound on the Sabbath in case of pestilence;" but the sages did not agree with him [in this].

§ 8. For every plague—which may the community never be visited with![1]—an alarm is to be sounded, except for a superabundance of

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[1] This is to avoid making use of an expression involving evil; but the real meaning is, "For every plague that may befal the community," &c.

rain.[2] It happened once, that they said to Honee, המעגל, "Pray for us, that rain may fall." He told them, "Go and bring in the Passover ovens,[3] that they may not be spoiled by the rain." He prayed, and the rain did not descend. What did he then? He marked out a circle,[4] and placing himself within it, thus prayed, "Creator of the world! thy children have looked up to me as being peculiarly favoured by thee;[5] I swear, by thy Great Name, that I will not move from this place until thou wilt have compassion on thy children." The rain began to drop down [gently]. He said, "It was not for this that I petitioned, but for rain [sufficient to fill] wells, cisterns, and caves." The rain then fell in violent torrents; when he said, "Not for such rains did I petition, but for mild, felicitous, and liberal showers." The rain then fell in the usual manner, until the Israelites of Jerusalem were obliged to go from the city to the Temple mountain, on account of the rain. They came and said to him, "Even as thou didst pray that the rains might come down, thus pray now that they may cease." He said to them, "Go and see whether the stone טועים[6] is covered by the waters." Simeon, son of Shatach sent him word, "If thou wert not Honee, I would order thee to be anathematised; but what shall I do to thee? since thou sinnest against God, and yet he forgives and indulges thee like a favoured child, who sins against his father, and is yet forgiven and indulged. To thee may be applied the text, 'Thy father and mother shall rejoice, and they who begot thee shall be glad.' (Prov. xxiii. 25.)"

§ 9. If, while they are fasting, rain should fall before sunrise, they shall not continue to fast the whole day; but they must if after sunrise. R. Eleazar says, "If [it rains] before noon they need not continue to fast the whole day; but they must if the rain commenced after noon is passed." It happened once that a fast [for rain] was

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[2] If it does not spoil the growing corn. Observe, this Mishna applies *exclusively* to the Holy Land, and other mountainous countries, where they can scarcely have too much rain.

[3] The ovens they used to roast the paschal lamb, which were moveable, and made of clay or slightly baked earthenware, and which were generally kept outside the house when not in use.

[4] Some explain it, "He dug out a circular trench on which he placed himself."

[5] In the original, "That I am like a son of the house before thee."

[6] A high stone in Jerusalem was thus called, because those who had found any article deposited it thereon, and proclaimed through the city that they had found something. The owner of the lost article then applied, and if the description of the article he alleged to have lost was found to be correct, it was restored.

ordered in Lydda [לוד], and it rained before noon; when R. Tarphon said unto them, "Go, eat and drink, and make a feast." They went, eat and drank, and made a feast; but in the evening they returned, and sang the great Hallel. (Ps. cxxxvi, &c.)

CHAPTER IV.

§ 1. At three periods of the year, the priests shall raise their hands [to bless the people], in each prayer, [and] four times [in one of them], in the morning, additional, afternoon, and closing [or concluding] prayers. [The three mentioned periods are] on the fast-days, on the fast of the standing men,[1] and on the day of atonement.[2]

§ 2. These are מעמדות, standing men [and this is the cause of their institution]. It is written (Numb. xxviii. 2), "Command the children of Israel, and say unto them, My offering, viz. my bread," &c. How can an offering be brought for a person without his standing near it [at the time of its being sacrificed]?[3] Therefore did the elder prophets institute twenty-four "mishmaroth" [or divisions of orders]; each mishmarah had always a "mahamad" [or section of standing men], composed of cohanim [priests], Levites, and Israelites, stationed at Jerusalem.[4] When it came to the turn of each mishmarah to go up [from their cities to the Temple], the priests and Levites went up to Jerusalem, and the Israelites who belonged to that mishmarah,[5] assembled in [the synagogues of] their cities to read the history of the creation [viz. the 1st chapter of Genesis].

§ 3. The standing men used to fast four times in the week, viz. from Monday till Thursday [inclusive], but they did not fast on Friday, on account of the honour due to the Sabbath, nor on Sunday,

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See our seventh note, p. 172, and the following section of this Mishna.

[2] The wording and collocation of sentences in this section of the Mishna is so obscure as to appear contradictory and unintelligible, without much interpolation and alteration of the collocation of the sentences. The following appears to be its true sense:—"At three periods of the year, which are the fast-days, the fasts of the standing men, and on the day of atonement, the priests shall raise their hands thrice in each prayer, viz. in the morning, afternoon, and closing prayer, and in one of these [viz. the day of atonement, on which the מוסף, or additional prayer is said] *four* times."

[3] To pray that the sacrifice may be favourably accepted.

[4] To officiate in the temple, each in their proper station and appointed service.

[5] Namely, the remainder, to whom, owing to the distance of the towns in which they lived, from Jerusalem, it was inconvenient to leave their places to go to Jerusalem.

that they might not [suddenly] pass over from repose and pleasure to weariness and fasting, which might endanger their lives. On Sunday they read [the sections] בראשית and יהי רקיע (Gen. i. 1, &c. and *v.* 6, &c.); on Monday יהי רקיע (*v.* 6, &c.) and יקוו המים (*v.* 9, &c.); on Tuesday יקוו המים (*v.* 9, &c.) and יהי מאורות (*v.* 14); on Wednesday יהי מאורות (*v.* 14) and ישרצו חמים (*v.* 20); on Thursday ישרצו המים (*v.* 20) and תוצא הארץ (*v.* 24); on Friday תוצא הארץ (*v.* 24) and ויכלו (ii. 1—4). A long section was read by two persons, and a short one by one only; that is to say, in the morning and additional prayers, but at the afternoon prayers they entered [the synagogue] and read the mentioned sections by heart, even as the "Shemang" is read. On Friday [afternoon] they did not go [to the synagogue] at all, in honour of the Sabbath.

§ 4. On those days on which "Hallel" is sung, the standing men used not to attend during the morning prayer [in Jerusalem]. When there was an additional offering קרבן מוסף, they did not assemble at the time of the closing prayer. When a wood-offering[6] was brought, they did not assemble during the afternoon prayer. Thus saith R. Akivah; but Ben Azzai said to him, "Rabbi Joshua taught as follows: When there was an additional offering, the standing men did not assemble during the afternoon prayers; when a wood-offering was brought, they did not assemble at the time of the closing prayer." Then R. Akivah changed [his opinion] and taught like Ben Azzai.

§ 5. The times [of the delivery] of wood [for the altar] by priests and people, were on nine appointed days; on the 1st of Nissan, the family Arah ben Jehudah [delivered];[7] on the 20th of Tamuz, the family of David ben Jehudah; on the 5th of Ab, the family of Parhos ben Jehudah; on the 7th, the family of Jonadab ben Rechab; on the 10th, the family of Sinha ben Benjamin; on the 15th, the family of Zatoo ben Jehudah, and with them priests and Levites, and all those who did not know from what tribe [they were descended], also the family of Gonebé Eli, and that of Kosehai Kesignot; and on the 20th, the family Pachat Moab ben Jehudah; on the 20th of Elul, the family Adeen ben Jehudah; on the 1st of Tebet, the family Parhos, for the second time. There was no meeting of the standing

[6] See the next section.

[7] The families here mentioned had the privilege of furnishing wood for the altar of burnt-offerings, having, at the rebuilding of the Temple after the Babylonian captivity, spontaneously supplied the altar with wood of their own. Compare Nehemiah vi.

men on the 1st of Tebet; because "Hallel" was sung, and an additional sacrifice and wood-offering were brought [on that day].

§ 6. Five [calamitous] events happened to our ancestors on the 17th of Tamuz, and five on the 9th of Ab. On the 17th of Tamuz, the tables of the Holy Law were broken;[8] on that day the continual sacrifice ceased,[9] and the city of Jerusalem was stormed; on it Opostamos burned the Holy Law, and placed an idol in the Temple; on the 9th of Ab, it was decreed that our ancestors should not enter the Holy Land;[10] on the same day the first and second Temples were destroyed [11] the city of Bethar was taken,[12] and the site of [Jerusalem] was ploughed [like a field[13]]. From the 1st of Ab a person is bound to lessen his participation in joyous occasions [till after the fast on the 9th].

§ 7. During the week in which the 9th of Ab happens, it is prohibited to a person to shave himself, or to wash [his clothes[14]], but on Thursday it is allowed in honour of the Sabbath.[15] On the day before the 9th of Ab, a person may not partake of two [different kinds] of cookeries [or dishes], eat meat, or drink wine thereon. Rabbon Simeon ben Gamaliel says "[It is sufficient to] alter [from one's customary mode of living]." R. Jehudah considers it obligatory to turn over the bed places,[16] but the sages do not agree in this.

§ 8. Rabbon Simeon ben Gamaliel says, "Never were more joyous festivals in Israel than the 15th of Ab and the day of atonement, for on them the maidens of Jerusalem used to go out dressed in white garments—borrowed ones, in order not to cause shame to

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[8] See Exod xxiv. and xxxii. from whence it appears that Moses must have descended after his forty days' stay on the mountain on the 17th of Tamuz, because that is the exact number of days from the 7th of Sivan.

[9] For want of cattle, the city being then closely besieged.

[10] See Numbers xiv. 27, &c.

[11] The first Temple by Nebuchadnezzar, and the second [also on the 9th of Ab] by Titus.

[12] By the Emperor Adrian, when many thousands of Jews [580,000] were massacred.

[13] As predicted (Jeremiah xxvi. 18), this took place about the same time as the preceding, when T. Rufus, governor of Judea, under Adrian, ploughed up the site of the Temple [and the city of Jerusalem]. See Jost's History of the Israelites, vol. iii. book x. chap. 10, p. 240.

[14] Till after the fast.

[15] This is when the 9th of Ab happened on a Friday, which cannot now happen in our present calendar.

[16] It was customary among the ancient Israelites to turn over the couches on which they sate in the day and slept on at night, on an occasion, and as a sign, of mourning.

those who had them not of their own;—these clothes were also to be previously immersed,[17] and thus they went out and danced in the vineyards, saying, Young men, look and observe well whom you are about to choose [as a spouse]; regard not beauty [alone], but rather look to a virtuous family, for 'Gracefulness is deceitful, and beauty is a vain thing, but the woman that feareth the Lord, she is worthy of praise' (Prov. xxxi. 3); and it is also said (*v.* 31), 'Give her of the fruit of her hands, and let her own works praise her in the gates.' And thus is it said [in allusion to this custom], 'Go out, maidens of Jerusalem, and look on King Solomon, and on the crown wherewith his mother has encircled [his head] on the day of his espousals, and on the day of the gladness of his heart' (Cant. iii. 11); 'the day of his espousals,' alludes to the day of the gift of the law, and 'the day of the gladness of his heart,' was that when the building of the Temple was completed."[18] May it soon be rebuilt in our days. Amen!

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[17] For fear of pollution of נדה, being borrowed clothes.

[18] Moses brought down the second tables, and the Temple was dedicated by Solomon on the day of atonement.

XXI. TREATISE MEGUILLAH,

OR, OF THE ROLL OF THE BOOK OF ESTHER.

Introduction.

This Treatise, according to its title, treats of the periods appointed for the reading of the book, of the manner in which it is to be written, and read on the feast of lots פורים. A considerable part of this Treatise, however, is taken up with matters not immediately connected with the subject of its title, such as laws relating to synagogues, the public readings of the Holy law on various solemn days, &c. and with other matters incidentally mentioned.

CHAPTER I.

§ 1. The Meguillah[1] is read [sometimes] on the 11th, 12th, 13th, 14th, or on the 15th [of the month Adar], neither earlier nor later. Cities which, from the time of Joshua, the son of Nun, were surrounded with walls, read it on the 15th.[2] Villages and large [open] towns[3] shall read it on the 14th, but inhabitants of villages may read it in advance on the day of assembly.[4]

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[1] We retain this Hebrew word [which has been already explained above] in order to avoid tedious circumlocutions.

[2] This was thus ordered, to honour the Holy Land, that they should, even as in Shushan, read the Meguillah on the 15th of Adar.

[3] Under this term, all open places larger than villages, and all towns not walled in, during the time of Joshua, are here to be understood.

[4] Namely, on Mondays or on Thursdays, for on these days the country people came to town to attend the markets, or the synagogues in which the law is read on these days, or the tribunals of justice, if they had any lawsuit, as the Beth Din sate on these two days.

§ 2. How is this [to be understood]? When the 14th happens on Monday, inhabitants of villages and of large [open] towns shall read it on that day, and those of walled cities on the day following. When it happens on Tuesday or Wednesday, the inhabitants of villages shall read it in advance on [the preceding Monday] the day of assembly, those of large [open] towns on that day [viz. on the 14th] and those of walled towns on the day following.[5] When it happens on Thursday, inhabitants of villages and of large [open] towns shall read it on that day, and those of walled towns on the day following. If it happen on Friday, the inhabitants of villages shall read it in advance on [the preceding day] the day of assembly, and those of large [open], and of walled towns, on that day [viz. on the 14th]. When it happens on the Sabbath, inhabitants of villages and of large [open] towns shall read it in advance on [the preceding Thursday,] the day of assembly, and those of walled towns on the day following [the Sabbath].[6] When it happens on Sunday, inhabitants of villages shall read it on [the preceding Thursday] the day of assembly, and those of large [open] towns on that day [i.e. on the 14th], and those of walled cities on the day following.

§ 3. What must be considered as a large [open] town? Any town in which there are ten unemployed men.[7] Should there be less than that number, it is [legally] considered as a village. It was said with respect to these, that "it may be done sooner, but not later," but the time of the delivery of wood for the priests,[8] the fast on the 9th of Ab, the festive sacrifice, and the day of assembly [of the people],[9] are to be postponed to a later day, but must not be kept before [their proper time] and although it was said [in respect to the reading of the Meguillah] that it may be done earlier, but not later, it is yet permitted on these days to pronounce funeral orations,[10] and to fast on them; also to give the alms [obligatory to be given] to the poor

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[5] This, as well as the preceding part, refers to the time when messengers were sent out to announce the day of the new moon, on the evidence of witnesses who had seen it, as mentioned in Treatise Rosh Hashanah; but, according to our present calendar, the 14th of Adar [i. e. פורים] can never now happen on Monday, Wednesday, or Saturday.

[6] On Sunday.

[7] Under this term are designated certain men hired by a Jewish congregation to *abstain* from work during the hours of prayer in the synagogues, and to attend there at these times, so that there may always be the legal number [*minyan*] present during the prayers.

[8] See Treatise Taanith, chap. iv. § 5.

[9] See Deuteronomy.

[10] As mourning over, and in praise of, an eminent deceased person.

[on Pureem]. R. Jehudah says, "When [is it allowed to read the Meguillah before its proper time]? In places where it is customary [for the country people] to assemble [in the towns] on Mondays and Thursdays; but where that does not take place, it [the Meguillah] may only be read on its proper day."

§ 4. If the Meguillah had been read in the 1st Adar, and the year declared [by the Sanhedrin] to be intercalary, it must be again read in the 2nd Adar. There is no difference between the פורים of the 1st Adar, and that in the 2nd, but the reading of the Meguillah and the gifts to the poor [which are obligatory on the 2nd].

§ 5. There is no difference between the Sabbath and festivals, except the preparation of food.[11] There is no difference between the Sabbath and the day of atonement, excepting that those who knowingly and wilfully profane the Sabbath are punished by man, whilst those who wilfully profane the day of atonement are punished [by God] by utter excision.

§ 6. There is no difference between one who by vow has interdicted himself from receiving any benefit from another, and one whose vow was limited to the interdiction of accepting any food from another, except that it is not lawful for the first to set his foot in the house [or property] of the other, and to borrow vessels [of the other] which are not used for the preparation of food. There is no difference between vows and freewill-offerings, except that in the case of the first mentioned, the person who thus vows is liable for the risk,[12] but he is not liable for the last mentioned.

§ 7. There is no difference between a person labouring under an [involuntary] emission [of semen] who has experienced it twice [on the same day, or on two following days], and one who has experienced it thrice [in the same time, or within three days], excepting that the last mentioned must bring a sacrifice. There is no difference between a leprous person who has only been shut up,[13] and one [whom the priest has] declared as leprous, excepting that the latter must go with rent clothes, and suffer the hair of his head to grow wild.[14] There is no difference between the leper declared clean after being shut up, and one who has been cured of that disease, excepting that the latter must be shaved, and bring offerings of birds.

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[11] Which is allowed on the latter, but not on the Sabbath.

[12] In case the animal he has vowed to offer should be stolen, have strayed, or otherwise been lost, he will be bound to replace it by another.

[13] Levit. xiii. 4, &c. [14] Levit. xiii. 45.

§ 8. There is no difference between the [Holy] books[15] and Tephilin [Phylacteries] and Mezuzzoth [scrolls placed on the door posts (Deut. vi. 8, 9)], except that the first mentioned may be written in any language, but the latter in Hebrew[16] only. Rabbon Simeon ben Gamaliel says, "The permission to write the [Holy] books [in another language] was limited to the Greek language only."

§ 9. There is no difference between a high priest anointed with the sacred oil, and one whose dignity was marked by additional [sacerdotal] vestments only,[17] except the bull which the first mentioned is to offer, in case he gave a wrong decision, which led to a transgression of a precept[18] [of the law]. There is no difference between an officiating high priest and his late substitute,[19] except the bull offered on the day of atonement, and the tenth of the ephah [of flour] [which the first mentioned, or real high priest, alone might offer].

§ 10. There is no difference between a large high place and a small one,[20] except the paschal offering.[21] This is the rule:—All offerings which are brought in consequence of vows, and all peace-offerings, may be offered on a small high place, but not sacrifices of any other kind.

§ 11. There was no difference between [the tabernacle at] Shiloh and [the temple at] Jerusalem, except that at the former place it was lawful to eat of sacrifices having a minor degree of holiness, and of

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[15] Under this term are comprised all the books of the sacred Scriptures, the Pentateuch excepted.

[16] This is rendered according to the commentary of Rashi. The expression in the original is אשורית [Assyrian], but Rashi derives it from the root אשר, "happiness," and applies it as a title given to the Hebrew writing or character *quasi* a happy or beautiful style of writing.

[17] This was the case during the latter part of the first, and the whole period of the existence of the second Temple, when high priests were no longer consecrated to their high ministration, by being anointed with the sacred oil.

[18] See Leviticus iv. 3, and the Commentaries.

[19] In the original כהן משמש, and כהן שעבר, by the first designation the actual high priest is understood, who, owing to circumstances which rendered it unlawful for him to minister, had returned to his ministration on the cessation of the impediment. The second expression is applied to the priest who, in the interim, had acted as his substitute.

[20] High places are the altars on which they used to sacrifice before the erection of the Temple at Jerusalem: by large high places, the public altar; and by small high places, the altars of private persons are meant (See Judges and Samuel, *passim*).

[21] And other offerings, for which a particular time is prescribed.

the second tithe, in any place from whence [Shiloh] might be seen; but in Jerusalem it was lawful to eat these within the walls only. In both places, however, sacrifices which were most holy[22] might only be eaten within the hangings [of the court of the sanctuary]. The holiness of Shiloh had [subsequently] a period in which it became lawful [to offer sacrifices elsewhere]; but the holiness of Jerusalem has no such period.

CHAPTER II.

§ 1. Any one who reads the Meguillah in an irregular manner, does not acquit himself of his obligation; nor in case he reads it by heart, or translated in any language he does not understand; but it is lawful to read it to those who understand foreign languages,[1] in that foreign language. One who speaks a foreign language, who has it read to him in Hebrew, will be released from his obligation.

§ 2. Should any person read it so as to make long pauses between the parts, and slumber meanwhile, he will be released from his obligation. If any one should read the Meguillah whilst writing, expounding, or correcting it, with intention of thereby becoming released from his obligation, he will have fulfilled it, but not if he had no such intention. If the Meguillah was written with paint, ruddle, gum, vitriol black, on papyrus, or on rough vellum, the obligation is not properly fulfilled; but it must be written in Hebrew characters, on good parchment, and with ink.

§ 3. If an inhabitant of an [open] town[2] had gone to an [anciently] walled town,[3] or one of [an anciently] walled town had gone to an [open] town; if he intend to return [when the Meguillah is read] to his place, he shall read it at the same time they read it in his place; if not, he shall read it with the inhabitants of the place in which he then is. From whence is it necessary to have commenced the reading of the Meguillah, so as to have duly fulfilled the obligation? R. Meir saith, "It is obligatory to read the whole." R. Jehudah says, "It suffices if he commenced at איש יהודי (Esther ii. 5)." R. José saith, "[Even if] from אחר הדברים האלה (Esther iii)."

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[22] See Treatise Zebachim.

[1] By "foreign" languages, all languages not Hebrew are to be here understood.

[2] Who read on the 14th of Adar.

[3] Who read on the 15th. For the legal meaning of open and of anciently walled towns, see our 3rd note, page 180.

§ 4. All are qualified to read the Meguillah, with the exception of a deaf or a foolish person, or a minor; but R. Jehudah allows it to be said by a minor. The following religious acts may not be done before sun-rise on the day on which they are obligatory, viz.:—To read the Meguillah, to circumcise, to bathe [on the seventh day of the purification of an unclean or defiled person], to sprinkle [the unclean as a purification]; nor may a woman [who had experienced her menses beyond the usual time, and who was to] wait a day [before she might bathe][4] do so before the sun-rise of that day. But if any of these acts have been done at any period after day-break, they are valid.

§ 5. The following religious acts may be done during the whole of the day [on which they are obligatory], viz.:—The reading of the Meguillah; of the Hallel; the sounding of the cornet; the use of the loolab, or palm-branch; the prayer at the additional offering; the additional offering; the confession of sin on sacrificing the bulls;[5] the confession to be made on bringing the [second] tithe; the confession of sin by the high priest on the day of atonement; the imposition of hands [on a sacrifice]; the slaughtering of a sacrifice; the waving of the offering; the bringing it to the altar; the taking of the handful of flour (Lev. ii. 2); the burning with incense of the fat of a sacrifice on the altar; the pinching or wringing off the head of fowls brought as sacrifices (Lev. i. 15); the receiving of the blood of a sacrifice; the sprinkling thereof on the altar; the giving the bitter waters to drink to a woman suspected of adultery; the striking off of the heifer's neck (Deut. xxi. 4); and the purification of a leprous person.

§ 6. The following acts may be done during the whole of the night: the cutting of the sheaves for the "omer," and the burning with incense of the fat and members of a burnt-offering on the altar (Lev. vi. 9). This is the rule:—Whatever is commanded to be done by day, may legally be done during the whole of the day; and whatever is commanded to be done by night, it is lawful to do during the whole of the night.

CHAPTER III.

§ 1. Inhabitants of a town who have sold the open [or market-

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[4] This is explained in Treatise Niddah.

[5] See Leviticus iv. 3, &c. and 13, &c.

place] of the town,[1] may buy for that money a synagogue. The money obtained by the sale of a synagogue, they may apply to the purchase of an ark [to keep the rolls of the Holy Law in]; for that obtained by the sale of such an ark, cloaks or wrappers for the rolls of the Holy Law may be purchased; for the produce of such wrappers, sacred books[2] may be purchased; for the produce of sacred books, a roll of the Holy Law may be purchased; but if they had sold a roll of the Holy Law, it will not be lawful to apply that money for the purchase of [other] sacred books, nor wrappers for the proceeds of sacred books, nor an ark for the proceeds of wrappers, nor a synagogue with the proceeds of an ark, nor an open [or market] place with the money obtained by the sale of a synagogue,[3] and even so in respect to any surplus fund. According to R. Meir, it is unlawful to sell sacred public property to private individuals, because its sanctity becomes thereby lowered: but the sages replied, "If so, it would be also prohibited for a large town to sell sacred things to a smaller one."

§ 2. A synagogue may, according to R. Meir, only be sold on condition that it may at any time be repurchased by the original owners; but the sages permit it to be sold permanently, only it may not be sold to be applied to the following occupations: namely, as a bathing-house, as a tanning place [or pit], as a diving-bath, and as a laundry. R. Jehudah says, "It may be sold on the condition that it be made an open court, and then the purchaser is at liberty to turn it to what purpose he pleases."

§ 3. R. Jehudah teaches also, that no funeral orations may be delivered in a synagogue which had become ruinous, nor may it be used as a rope-walk,[4] nor to spread nets therein [to dry, &c.], nor to spread fruit on its roof, nor to use it as a short cut,[5] as it is said (Lev. xxvi. 31), "I will bring your sanctuaries into desolation," that is, they remain *sanctuaries* even in their desolation. If grass

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[1] Which is occasionally used to pray in (see Treatise Taanith, c. ii. § 1), and which, therefore, has some degree of sanctity.

[2] Under this term are comprehended all the Sacred Writings, the Pentateuch excepted.

[3] The rule is, that the money must be applied to the purchase of an object having a higher degree of sanctity than that possessed by the object from the sale of which the money was derived.

[4] Nor indeed for any other work; but the Mishna mentions a rope-walk as a business most likely to be carried on in a large ruinous building.

[5] That is, passing through it to save ground.

spring up therein, it may not be pulled up, that the view may contribute to the affliction [of the beholder].

§ 4. When the new moon of Adar happens on a Sabbath, the section Shekalim (Exod. xxx. 11), is to be read; if it happen on any other day, that section must be read on the preceding Sabbath, and nothing additional is read on the following Sabbath. On the second, the section זכור (Deut. xv. 14), is to be read; on the third, that of the red heifer, פרה (Num. xix); on the fourth, that of החדש (Exod. xvii); on the fifth, they return again to the regular order.[6] The regular order [of Aphtoroth] is also to be interrupted on the feast of new moon, on that of dedication, on Pureem,[7] and on public fast-days, also on the fast of the standing men.[8]

§ 5. On [the first day of] Passover, the section in Leviticus relative to the festival must be read; on the feast of weeks, that commencing, "Seven weeks shall ye count," &c. (Deut. xvi); on the feast of new year, the section commencing, "In the seventh month, on the first day of the month" (Num. xxix. 1); on the day of atonement, that of אחרי מות (Lev. xvi.); on the first day of the feast of tabernacles, the section in Leviticus relative to the festivals must be read; and on the other days of that festival, the offerings for each day (Num. xxix. 17).

§ 6. On the feast of dedication, the section of the offerings of the princes (Num. vii.) must be read; on Pureem, that of ויבא עמלק (Exod. ix. 8); on the feast of new moon, וביום ראשי חדשיכם (Num. xviii. 11); on the fast-days for the standing men, the history of the creation (Gen. i., &c.);[9] on fast-days, the section containing the blessings and maledictions (Lev. xxvi. 3), the denunciations therein contained must be read without interruption, namely, one man must read the whole [chapter]. On Mondays and Thursdays, and on the Sabbath afternoon, they shall read the section of the law in its regular order, but these readings are not available to reduce the regular number:[10] for it is said, Lev. xxiii. 44, "Moses declared

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[6] Of the Aphtoroth; which, on other occasions, must be connected with the subject of the first section read, but during the mentioned weeks, the subject of the Aphtorah is that of the last, or additional sections.

[7] Which *formerly* might happen on the Sabbath: compare our Note 5, p. 181.

[8] Vide Treatise Taanith.

[9] See the last chapter of Taanith.

[10] That is, the three men then called, and the section read to them, are not to be deducted from the section of the following week, as having already been read, but the section is to be recommenced on the following Sabbath.

unto the children of Israel the appointed festivals of the Lord," whence it is inferred, that each section must be read on the appointed festival to which it refers.

CHAPTER IV.

§ 1. The Meguillah may be read either sitting or standing, by one person only, or by two persons at the same time, they alike fulfil their obligation. In places where it is usual to say a blessing [after reading it], it is obligatory to say it, but not where it is not customary. Three men are called [to read in the Holy Law] on Mondays and Thursdays; and in the afternoon of the Sabbath, neither more nor less than that number may be called, nor shall any section from the Prophets then be read.[1] He who commences the reading of the Holy Law, shall say the [first] blessing before reading it, and he who concludes the reading, shall say the last blessing to be said after reading it.[2]

§ 2. On the feast of new moon, on the middle-days of the festivals, four men are to be called; this number may neither be added to, nor diminished, nor shall any section in the Prophets then be read. The first of these [men] shall say the [first] blessing before reading, and the last, who concludes the reading, shall say the last blessing after reading. This is the rule: on all days when an additional offering is prescribed, and which are not festivals, four men are to be called; five on festivals; six on the day of atonement; and seven on the Sabbath; this number may not be diminished, but it may be increased, and a section from the Prophets must be read on those days. The first of those who then read in the Holy Law, shall say the blessing before reading, and he who concludes the reading, shall say the last blessing after reading.

§ 3. When ten men are not present in the synagogue, the Shemang may not be repeated,[3] nor may any one then go before the

[1] In order not to detain the people too long in the synagogues.

[2] And those who are called between, shall not say any blessing; this has, however, been altered subsequently, on account of people who might have entered the synagogue in the interval, and who had not heard the first blessing.

[3] The original expression אין פורסין את שמע, has given rise to various interpretations. According to Rashi and Bartenora, it is derived from פרס, splitting or division: i. e. the Mishna here contemplates the case of ten persons having entered a synagogue after the congregation had already said the Shemang, when one of them says Kadish and ברכו, and only one of the two blessings ordered to be read before the Shemang (see Treatise Berachoth), thus splitting or cutting off one of these two blessings.

reading-desk [to act as minister], nor may priests raise [then] their hands [to say the priest's blessing], nor may they [then] read in the law, nor read a section from the Prophets; and when there are not ten persons present at a burial, the customary sittings, and stoppages with the corpse[4] may not take place, nor may the blessing for mourners be said, nor the forms used as condolence to mourners,[5] nor the seven blessings said on the celebration of a marriage, neither may the persons who join to say the grace after meals mention the Divine name.[6] And on an occasion of redeeming land that has been consecrated, it is necessary that at least nine Israelites and a Cohen [priest] shall be present, and the same also at the valuation of a man.[7]

§ 4. Not less than three verses of the Holy Law may be read in the synagogue to each person [called to read]. One verse only of the law may at one time be read to the *meturgeman*, or interpreter,[8] but it is lawful to read three consecutive verses to him from the Prophets,[9] but if each verse should form a separate section, one verse only may be read to the *meturgeman* at a time. Passages may be

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[4] It was the custom, in the time of the Talmud, to set down the corpse seven times on its way to the grave, when the mourners sat down, and when either a funeral oration [הספד] was pronounced, or compliments of condolence were made; between each of these seven pauses, they used to say to them, "Rise ye good people, rise," or, "Sit down good people, sit down." (Rashi, Bartenora, and Rishbam, in chap. V. of Baba Kammah).

[5] On returning from the grave, the persons present, excepting the mourners, used to place themselves in rows, through which the mourners passed, to whom they addressed some words of condolence; these rows might not consist of less than ten persons.

[6] That is, to say נברך אלהינו; this last word is added when ten men are present. See Treatise Berachoth, chap. IX. § 7.

[7] That is, in case a person had said, "I vow the value of my person to the sanctuary," he must pay to it the amount he would bring if he were sold as a slave.

[8] It was customary ever since the time of Ezra, that at the public readings of the law, each verse was translated by a person called the *meturgeman*, or interpreter, who translated each verse as it was read in Hebrew into the vernacular [which then was Chaldee], in order that the people should understand what was read. The Mishna here directs that only one verse should be read to the *meturgeman* at a time, in order not to confuse him, and cause him to make errors, as he was bound to translate the Hebrew text *extempore*. (See more about this custom in Maimonides, chap. XII. of Hilchoth Tephilah, vol. I. page 78, of the Amsterdam edition.)

[9] This is only if the *meturgeman* desires it.

skipped over [מדלגין] in the reading of the Prophets, but not in that of the Holy Law. What time may be suffered to elapse to skip from one passage to another? While the *meturgeman* does not conclude his interpretation.[10]

§ 5. Whoever is accustomed to say in the public [synagogue] the section from the Prophets, in [the] public [synagogue] shall also there publicly recite the Shemang,[11] and act as minister before the tebah [reading-desk], and [if a cohen] shall say the blessing of the priests; if a minor, his father, or teacher, shall act for him.

§ 6. A minor may read in the law [in the synagogue], and act as *meturgeman*, but may not publicly recite the Shemang, nor act as minister at the tebah, nor [if a priest] say [by himself] the blessing of priests. A פוחח [that is, one whose clothes are torn, so that his arms and legs appear, or, as others explain it, one whose legs and arms are quite bare,] may repeat the Shemang, and act as *meturgeman*, but he may not read in the Holy Law, nor act as minister before the tebah, nor [if a priest] say the blessing of priests; a blind person may repeat the Shemang,[12] and act as *meturgeman*; but R. Jehudah says, "One who never beheld the light [that is, was born blind], may not repeat the Shemang."

§ 7. A priest whose hands are deformed, may not raise them [to bless the people]. R. Jehudah also prohibits it to a priest whose hands are stained with woad or with madder roots, because the people stare at him. A person who should say, "I will not minister at the tebah in coloured clothes," may not be permitted to do so in white ones; if he refuses to minister with sandals to his feet, he may not be permitted to minister barefooted.[13] A person who makes the tephilin round,[14] endangers himself,[15] and has not properly observed the commandment; a person who places them [low down] on his forehead, or on the palm of his hand, acts in a heretical manner: if he cover them with gold, he imitates the opponents of tradition.

§ 8. A person who, in his prayers to the Almighty, says, "The

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[10] This is rendered according to the commentary of Maimonides; but this passage is variously explained.

[11] See Note 3, page 188.

[12] It is prohibited to look at the priests whilst saying the blessing ברכת כהנים.

[13] Because it is supposed that these persons are hypocrites or heretics.

[14] That is, that for the head.

[15] By accidental contact with any hard substance.

good shall [alone] bless thee," acts in a heretical manner;[16] if he says, "Even to birds' nests were thy mercies extended," or, "For thy goodness be thy name remembered," or one who says twice, "Modim" [in the Amidah], he shall be silenced [by authority]. Also, whoever explains the text (Lev. xviii. 21), ומזרעך לא תתן להעביר למולך to mean, "Thou shalt not give thy seed to an Aramite [heathen] woman,"[17] and those who explain figuratively the section in the law relating to the prohibition of carnal intercourse between relatives (Lev. xviii), shall be silenced, and publicly reprimanded. The occurrence of Reuben with Billah is to be read without being interpreted; that of Tamar [and Amnon] is to be read and interpreted. The [first part of the] occurrence with the golden calf is to be read and interpreted; but the second part [commencing Exod. xxxiv. 21] is to be read, without being interpreted. The blessing of the priests, and the occurrence of David and Amnon, are neither to be read nor interpreted; the description of the Divine chariot (Ezek. i.), is not to be read as an Aphtorah [section from the Prophets], but R. Jehudah permits it; R. Eleazar says, neither (Ezek. xvi.), "Cause Jerusalem to know her abomination," &c.

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[16] Because the faith of Israel is, that the prayers of both good and bad should be jointly offered to God, even as it is prescribed in the composition of the incense offered to God, to blend the ill-smelling galbanum with the other odoriferous aromatics.

[17] So as to procreate children for idolatrous worship.

XXII. TREATISE MOED KATAN

OR, THE MIDDLE DAYS OF FESTIVALS.

Introduction.

This Treatise contains regulations for the better observance of the minor or middle days of the Passover and Tabernacles, pointing out which kinds of work may be performed on these middle days, and which are prohibited thereon. It also establishes certain rules for mourners.

CHAPTER I.

§ 1. Dry land may be irrigated on the Moed,[1] and also during the Sabbatical year, as well from a fountain that is newly sprung forth, as from one that is not newly sprung forth; but they must not irrigate it with rain-water, nor with water [drawn] from a deep well; nor may they make [dig] trenches [to hold water] round vines.

§ 2. R. Eleazar ben Azariah saith, "They must not make [dig] a fresh trench [conduit, or water course] on the Moed, or during the Sabbatical year." But the sages hold, that a fresh trench [water course] may be dug during the Sabbatical year, and that those [conduits] which are choked up, may be repaired on the Moed. They may [likewise] repair water reservoirs [which are] in the public reshuth,[2] and cleanse them. They may also repair the roads [streets], the market [public] places, and the spring-baths. In short, they may do whatever the exigencies of the public [service] require. They

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[1] מועד, The middle days of Passover and of Tabernacles.

[2] Vide Mishna, Treatise Sabbath, Introduction.

may mark [whitewash] tombs,[3] and even send out [inspectors] of Kilaim.[4]

§ 3. R. Eleazar ben Jacob saith, "They may lead water from tree to tree, provided always the whole orchard be not irrigated; plants which have not imbibed[5] [water] before the Moed, must not be irrigated during the Moed."[6] But the sages permit the one and the other.

§ 4. They may [by means of gins and pit-falls] catch moles and field-mice in orchards and fields, but they must not [do this] in the [usual] way,[7] both on the Moed and during the Sabbatical year. But the sages hold that in an orchard [the vermin may be caught] in the [usual] way, but that in a corn-field [it must] not [be caught] in the [usual] way. During the Moed they may pile [loose stones to stop] a gap[8] [in a fence], but during the Sabbatical year they repair it in the [ordinary] way.

§ 5. R. Meir saith, "Priests make the first inspection of the plague [of leprosy] in order to relieve [the patient], but not to restrict [him]." But the sages decide neither to relieve nor to restrict [in no case is such an inspection to be undertaken during the Moed].[9] R. Meir [further] saith, "A man may collect the bones of his father and mother [during the Moed, to inter them], because it is a satisfaction to him [relieves his mind]." But R. José saith, "It is a grief to him [afflicts his mind]. Man is not to excite [others to mourn] over his dead,[10] nor hold a funeral oration for thirty days before the festival."

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[3] In order that they may be distinguished, so that persons avoid contracting uncleanness.

[4] As such inspectors were sent out at the cost of the public, it was generally done on the middle days of the festivals, because, not having any other work to do, the men hired to act as inspectors were to be had at a smaller charge than at other times of the year.

[5] Either by rain or by the hand of man.

[6] Any occupation, the omission of which might cause loss or injury, is permitted during the Moed. R. Eleazar thinks, that as the plants have done hitherto without water, further delay cannot injure them. The sages, however, are of a different opinion.

[7] Some departure from the usual way of setting a gin, &c. must be adopted.

[8] Breaches in the wall of an inhabited house may be regularly rebuilt.

[9] R. Meir thinks the inspecting priest is at liberty to reserve his opinion, should it be unfavourable, so as not to afflict the sufferer. But the sages hold he is bound at once to pronounce his opinion.

[10] Who have been some time deceased.

§ 6. They must not dig graves or burial vaults on the Moed, but they may prepare [enlarge] graves [previously dug] on the Moed, and also make a washing pit during the Moed, and a coffin in the same court where the corpse lies [This, however,] R. Jehudah prohibits, unless the boards have been [previously] provided.

§ 7. They must not espouse wives on the Moed, neither virgins nor widows; nor must they be מיבם,[11] as that [the espousal] is a cause of joy to him individually,[12] but he may receive back his own divorced wife. A woman may prepare her ornaments on the Moed. R. Jehudah saith, "She must not apply lime [chalk as a cosmetic], because it [may] disfigure her."

§ 8. An ordinary person [who is not of the craft] may sew [make stitches] in the [regular] way; but the craftsman [whose trade it is to sew, must only do it] zigzag [during the Moed]. They may twine [the ropes in the sacking of] bedsteads. R. José saith, "[They may] only tighten [the ropes]."

§ 9. They may erect an oven, or a hearth, or a mill, on the Moed [for the use of the festival]. R. Jehudah saith, "New millstones must not be chipped."[13]

§ 10. A railing [balustrade] may be made round a roof, or gallery [according to the] workmanship of common men, but not [according to the] workmanship of [regular] craftsmen. Rents [in the roof] may also be closed, and [then] smoothened with a roller,[14] or with hand and foot, but not with a trowel. Should the hinges of the door-frame, or the beam, or the lock [of the door], or the key [thereto], have been broken, they may be repaired on the Moed, provided always he does not intentionally put off the repairs till the Moed. All [kinds of] pickled food[15] of which he can eat during the Moed, may be pickled.

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[11] יבם, the duty of marrying the childless widow of a deceased brother. Vide Treatise Yebamoth.

[12] And must not interfere with the general joy arising from the festival.

[13] Should they be too smooth, so as not to grind, they may not be chipped or sharpened during the Moed.

[14] According to Bartenora, it must be rendered, "and then smoothened [with hand and foot as if] with a roller."

[15] Edibles which require to be cured in salt or in vinegar, as fish, colewort, and the like.

CHAPTER II.

§ 1. He who has turned his olives,[1] and [then] has a death[2] [in his family], or [otherwise] is prevented [from at once putting them to press], or has been disappointed by his labourers, may put the first press-block on [the olives], and leaves it [thereon] until after the Moed. Such is the dictum of R. Jehudah; but R. José saith, "He may put [the olives] into the oil press, and finish pressing [them], and bung up [the casks into which the oil is poured] in the usual manner."

§ 2. Thus, likewise, he whose wine [has been pressed but still] is in the press-pit, should he [then] have a death in his family, or be [otherwise] prevented, or have been disappointed by his labourers, he may pour [the wine into casks], cooper, and bung them up in the usual manner. Such is the dictum of R. José: but R. Jehudah saith, "He must only cover [the pit] with boards, so that the wine may not grow sour."

§ 3. A man may house his fruit from [dread of] thieves, and take flax out of the buck, that it be not spoiled, provided always he does not intentionally defer doing it till the Moed: but should he have intentionally deferred doing it till the Moed, then in all these cases he forfeits [the article in question].[3]

§ 4. They must not purchase houses, slaves, or cattle, excepting for the use of the festival, or for the use of the vendor, who otherwise might have nothing to eat. They must not clear away [remove things] from one house to another, though this may be done if both houses are in the same court. Things [which have been put into the hands of a craftsman to be made up or repaired] must not be brought home from the workshop,[4] but if he [the owner] suspects [that the things, if left with the workman, may be lost, or that he may exact a second payment] he may remove them to another court.

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[1] When they are in the vat, in which case they must at once be pressed, or they rot.

[2] On account of which, he must keep the seven days mourning, and abstain from work. Should this period expire during the Moed, or should the labourers have disappointed him, longer delay might become fatal to the olives.

[3] Some explain this to mean, that he must leave the articles to be spoilcd, others, that he forfeits them, the Beth Din causing them to be distributed.

[4] Lest the owner be accused of having placed the things with the workman, and the latter of having been at work on them during the festival. The rule, however, only applies to such articles as are not wanted for use on the Moed.

§ 5. They may cover dried figs with straw. R. Jehudah saith, "[They may] likewise [be put] in layers."

§ 6. Dealers in fruit, in garments, or in utensils, may privately sell what is required for use on the Moed. Huntsmen [fishers], and manufacturers of peeled barley and grits, may carry on their occupations in private, as the exigencies of the festival may require. R. José said, "They have of their own accord adopted the more rigorous observance, and do not carry on their occupation during the Moed."

CHAPTER III.

§ 1. The following may [privately] shave [trim their hair] on the Moed:—he who arrives from beyond seas, or returns from captivity, or has been discharged from prison, or an excommunicated [person] whom the sages have absolved; likewise, he who has consulted a sage and been absolved,[1] also the nazir,[2] and the leper, who from [a state of] uncleanness is restored to cleanness.

§ 2. The following may wash [their garments] on the Moed:—he who arrives from beyond seas, or returns from captivity, or has been discharged from prison, and an excommunicated person whom the sages have absolved; also, he who consulted a sage, and by him had been absolved. Towels, barber's napkins, and bathing-towels [may be washed during the Moed]. Men and women who have had a running issue; women after their courses or lying-in; [in short] all [persons] who from [a state of] uncleanness are restored to cleanness, are permitted [to wash their garments], but all other persons are forbidden [so to do].

§ 3. The following [documents] may be written during the Moed: contracts of betrothing,[3] bills of divorce,[4] and receipts [in discharge

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[1] From a vow he had made not to have his hair cut for a certain period; which vow he repents of, and desires to annul, but could not, before the Moed, meet with a sage who would consent to absolve him.

[2] Vide Numbers vi. 1—21; in case the time of his vow expires during the Moed. This is also the case with all the permissions here granted, i. e. the person arriving from beyond seas, or returning from captivity, &c., must so arrive or return on the Moed.

[3] The marriage subsequently to be completed under the nuptial canopy, and by consummation, when a regular marriage contract is granted. (Vide Treatise Kedushin.)

[4] Granted by men who have been drawn to serve in the wars, and who must leave during the Moed.

of debts];[5] also wills or codicils,[6] deeds of gift, premonitions,[7] appraisements,[8] and deeds of maintenance,[9] certificates of חליצה,[10] and of refusal,[11] arbitration-bonds,[12] decrees of the Beth Din, and powers of attorney.

§ 4. They must not write bonds [to secure payment] of debts during the Moed; but if he [the lender] has no faith in him [the borrower], or if he has nothing to eat, then [the bond] may be written.[13] They must not write rolls of the Law, Tephilin, or Mezoozoth, during the Moed, and must not correct a single letter even in the roll of the law of עזרא (Ezra), [another version has of the עזרה, Azarah, outer court of the Temple[14]]. R. Jehudah saith, "A man may write Tephilin and Mezoozoth for his own use, and he may also spin sky blue wool for Zizith, in his lap."

§ 5. He who buried his dead [relative] three days before the commencement of the festival, is freed from the seven [days of deep mourning]; if [he buried his dead] eight days [before the festival],

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[5] In cases where the acknowledgment has been lost, and the debtor refuses payment.

[6] To the will of a person dangerously ill, or dying.

[7] פרוזבול (Vide Treatise Sheviith, chap. X. § 7); a legal deed, by means of which the lender gave notice to the Beth Din, that he reserved unto himself the right of enforcing payment against the debtor at any time. It was introduced by the elder Hillel in consequence of poor people being exposed to great distress, because the wealthy refused to accommodate them with any loans, which, according to Deut. xv., they could not recover after the seventh, or Sabbatical year. This notice had to be given before the seventh year commenced.

[8] Appraisements made by order of the Beth Din, in case the debtor's real property was to be assigned to his creditors.

[9] By which the Beth Din allowed aliments to the wife and children out of a man's estate, or by which he undertook to maintain his step-daughter.

[10] Vide Treatise Yebamoth, chap. XII. § 1 and 6.

[11] Vide Treatise Yebamoth, chap. XIII. § 1.

[12] Lest one of two litigants, who has agreed to submit his disputes to arbitration [a method of settling differences much encouraged by the Mishna], withdraw his consent; which, when the arbitration bonds have actually been signed, he no longer has the power to do.

[13] As the bond may be executed after the Moed, unless the lender has so little faith in the honesty of his debtor as to suspect he might, at a later period, deny the loan, and contend it was a gift. The words, "if he has nothing to eat," are by some made to refer to the debtor, while others apply it to the writer of the bond, whose subsistence depends on his earnings.

[14] The roll of the law written by Ezra himself; others suppose it to have been that roll of the law which was kept in the outer court of the Temple, that the Mishna here instances as most venerable.

he is freed from the thirty [days of mourning], because they [the sages] held that the Sabbath enters [into the computation], but does not supersede [the mourning, whereas] the festivals supersede [the mourning], but do not enter [into the computation[15]].

§ 6. R. Eleazar saith, "Since the destruction of the Temple, the festival of weeks [Pentecost] is [in respect to mourning, to be considered] like the Sabbath." R. Gamaliel saith, "The new year and the day of atonement are [to be considered] like festivals;" but the sages hold not with the dictum of the one or of the other, but [decide that] the festival of weeks is like other festivals, and the new year and day of atonement are like the Sabbath."[16]

§ 7. They are not to rend their garments, nor lay bare their shoulder,[17] not eat the funeral-meal [during the Moed], unless they be near relatives of the deceased;[18] the funeral-meal is not to be

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[15] The Sabbath is included in the number of the seven days of deep mourning, but does not supersede them; for if it did, there never could be seven days of deep mourning completed, as the intervening Sabbath would reduce the number. The festivals are not included in the number of the days of mourning, as they entirely supersede the seven days of deep mourning; and the portion of the thirty days mourning, which has expired before the festival, is carried forward till after the festival, and then added to the number of days, which complete the thirty. The mourning properly commences from the time the coffin is closed, hence the expression of the Mishna, "who buried his dead." The degrees of consanguinity which exact the full mourning [Sheebah, the seven days of deep mourning, and Sheloshim, the thirty days of mourning], are: first, father; second, mother; third, son; fourth, daughter; fifth, brother; sixth, sister; and seventh, spouse. The *halachah* is, that should a man bury his dead relative, even one hour before the festival comes in, he is freed from the seven days of deep mourning.

[16] In the days of the second Temple, the sacrifices which every Israelite was bound to offer on the Pentecost, could, in case of omission, be brought during the six days next after the feast. This alone, according to the opinion of R. Eleazar, assimilated the Pentecost with the other two festivals of longer duration; a similarity which he thought ceased with the cessation of the extended privilege, at the destruction of the Temple. The *halachah* is, that all the festivals, including the new year and day of atonement, equally supersede the seven days of deep mourning.

[17] A sign of mourning anciently exhibited, but now in desuetude.

[18] In one of the seven degrees of consanguinity enumerated in note [15] to the preceding paragraph. The exception to this rule is at the death of a distinguished sage, or chief of a congregation, who is considered as an ornament to the human race, and dear to all men as if he were their nearest relative.

taken except on a couch, standing up properly.[19] [The food for such a meal] is not placed before the mourners on a table, nor in a silver tureen, nor in a dish, but in wicker baskets.[20] The mourning prayer must not be said during the Moed, but the rows are formed,[21] and the [usual form of] consolation is pronounced, and the people assembled are at once dismissed.

§ 8. They must not set down [rest] the bier in any public place, that the mourning may not spread. The bier of women [must] at no time [be there set down], on account of [the] respect [due to the sex of the deceased]. The mourning-women may wail during the Moed, but not clap [their palms together]. R. Ishmael saith, "Those nearest to the bier, may clap [the palms of their hands together]."[22]

§ 9. On the festivals of the new moon, of dedication, and of purim, they [the mourning-women] may wail [aloud] and clap [the palms of their hands together], but must not sing lamentations [funeral dirges]; but when the corpse is interred, they must neither wail aloud, nor sing dirges. What is [meant by the expression] wailing? When all of them[23] join in one chorus. What is [meant by the expression] lamentation [dirge]? When one recites and the others respond [or repeat after her], as it is said, "Teach your daughters wailing and every one her neighbour lamentation."[24] But of future [ages] that are to come it is said, "Death shall be swallowed [destroyed] for ever, and the Lord will wipe away tears from off all faces," &c.[25]

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[19] At all other times the couches, which in the east are used as chairs, are turned over, as the mourners must not use them in the ordinary way.

[20] That no distinction be made between rich and poor.

[21] Vide Treatise Berachoth, chap. III. § 2, and note thereto.

[22] It was the custom in the times of the Mishna, to hire women whose profession it was to attend funerals, where they wailed, clapped their hands, &c.

[23] The hired mourners. [24] Jer. ix. 20. [25] Isa. xxv. 8.

TREATISE HAGIGAH

[Contains Laws relating to the Sacrifices on Festivals.]

WHICH CLOSES SEDER MOED.

סדר נשים

XXII. TREATISE YEBAMOTH.

Introduction.

This Treatise contains laws relating to the precept of *Yeboom*, i. e. the obligation of marrying the childless widow of a deceased brother (see Deut. xxv. 5—11), and the ceremony of *Chalitzah*, or the taking off the shoe by the widow to her brother-in-law, in case he refuses to marry her (Deut. xxv. 9).

In the first place, it must be premised that a surviving brother can marry only one of his brother's widows, and when the deceased brother has left several wives, and many brothers, the obligation of Yeboom is incumbent on one of the brothers, and of the widows only, and when that duty has been observed by them, all the others are released therefrom (Maimonides Hilchoth Yeboom, vol. ii. chap. i. § 9).

Secondly, that when circumstances exist which would render such marriage unlawful; as, for instance, if the parties were related to each other within the degree of consanguinity prohibited by the Holy Law to intermarry, the precept of Yeboom is superseded, and even the ceremony of *Chalitzah* is unnecessary.

Thirdly, that when the brother-in-law cannot marry the widow on account of near affinity, he may not marry any of the other wives of his deceased brother, who in the technical term of the Mishna are called rivals, צרות (see our first note).

This Treatise contains also many regulations having reference to the marriage laws in general, and is the first of the class or division of the Mishna called נשים, or laws relating to *women* [i. e. to marriage, divorce, &c.], because Yeboom is not a voluntary action, like marriage, or divorce, as the person on whom that duty devolves can be judicially compelled either to marry his widowed sister-in-law, or to allow her to perform the ceremony of Chalitzah to him.

We have found it indispensable, in order to avoid the almost con-

stant repetition of tedious circumlocution and periphrase, to retain a few Hebrew terms which recur in almost every section, viz. יבום, *Yeboom;* and חליצה, *Chalitzah;* which have already been explained; also גט, *get,* letter of divorce; and כתובה, *ketoobah;* or marriage contract.

CHAPTER I.

§ 1. Fifteen classes of women release themselves, their rivals,[1] and the rivals of these, *ad infinitum,* from the obligation of *Chalitzah* and *Yeboom;* these are [when the widow of the deceased is], (1) the [illegitimate] daughter of the brother, or (2) her daughter, or (3) the daughter of his [illegitimate] son, or (4) his wife's daughter, or (5) her son's daughter, or (6) her daughter's daughter, or (7) his mother-in-law, or (8) the mother of his mother-in-law, or (9) the mother of his father-in-law, or (10) his uterine or maternal sister, or (11) his mother's sister, or (12) his wife's sister, or (13) the widow of his uterine or maternal brother, or (14) the widow of a brother who had not been contemporary with him,[2] or (15) his daughter-in-law.[3] All these release their rivals, and the rivals of these, *ad infinitum,* from the obligation of *Chalitzah* and *Yeboom.* If, however, any of these had died, or refused her consent,[4] or had been divorced, or is unfit for procreation,[5] their rivals may be married by *Yeboom;* yet, refusal of consent, or of unfitness [to procreate], cannot be applied in respect to his mother-in-law, or the mother of his father-in-law.

§ 2. How is this release of rivals [by the mentioned classes of women] to be understood? When a person's daughter, or one of the mentioned forbidden degrees [of intermarriage] was married to

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[1] By this appellation, the Mishna designates the several wives of one man, who are called צרות [i. e. troubles, adversaries, or rivals], to each other, inasmuch as Kimchi observes in his Commentary [to 1 Sam. i. 6, where this word occurs], they are most often sources of trouble, jealousy, and vexation to each other.

[2] This will be explained in the next chapter.

[3] Namely, the widow of his son, who subsequently had married his [deceased] brother.

[4] A girl betrothed in her infancy may afterwards refuse to ratify the contract on becoming of age, when she objects to the husband to whom she had been betrothed by her parents, or brothers; see further, chap. XIII. of this Treatise.

[5] The אילונית, by which term the Mishna describes a female whose voice is like that of a man, and whose formation differs in other respects from persons of her sex.

his brother, who at his decease [without issue] left another wife besides her, then, even as the daughter is released [as he may not marry her], thus also is her rival released. If such a rival of the daughter should marry the second [or other] brother, who at his decease left another wife besides her, then, even as the rival of his daughter is released [as he may not marry the former rival of his daughter], thus does the rival of that rival become also released, and thus in the same manner even if there should be a hundred [brothers]. How is it to be understood that when these have died, it is permitted to marry their rivals by *Yeboom?* If his daughter, or one of the mentioned degrees prohibited to intermarry, was married to his brother, who had another wife besides, and his daughter had died, or had been divorced before the decease of his brother [to whom she had been married], then is he permitted to marry her by *Yeboom.* If any of these relatives had been qualified to refuse her consent, and did not refuse, her rival must perform the ceremony of *Chalitzah*, but cannot be married to her brother-in-law by *Yeboom.*

§ 3. In the case of the [hereafter to be mentioned] six more rigidly prohibited degrees of relationship, in which the women may be married to others only [viz. to strangers and not to the brothers], it is permitted to him to marry their rivals, after the decease of their husband; viz. his mother's, his father's wife's, his father's sister's, of a sister of father's side, of the wife of his father's brother, and of the wife of his brother by father's side.

§ 4. Beth Shammai permit brothers to marry [by *Yeboom*] the rivals of women [who are in forbidden degrees of relationship to them]; but Beth Hillel prohibit it. If such had performed the ceremony of *Chalitzah*, they are disqualified according to Beth Shammai to marry a priest; but Beth Hillel declare them qualified. If the brother-in-law had married any of them [by *Yeboom*], Beth Shammai permit them, in case they had again become widows, to marry a Cohen; but Beth Hillel prohibit it: and although one school prohibits what the other permits, and one declares as an invalid marriage that which by the other is considered a valid one, yet the disciples of either school did not refrain from intermarrying with each other; and also in respect to those laws of clean and unclean things, in which they differ in opinion, they did not refuse to lend each other vessels to be used for purposes which both schools considered as clean and lawful to be used. [6]

[6] And with respect to those about which they differed, they used to give each other notice.—BARTENORA.

CHAPTER II.

§ 1. How is it to be understood that the widow of his brother, who had not lived contemporary with him [releases her rival]? When of two [married] brothers one dies [without issue] and another brother was born after the decease of the first mentioned, and the second [or surviving] brother marries by *Yeboom* his widowed sister-in-law, and dies, then that sister-in-law is released, having been the wife of a brother who had not been contemporary with the [third, or youngest] brother. The wife [widow] of the second brother is also free, as the rival of the first mentioned, but if the other brother had only promised marriage to her and died,[1] then the sister-in-law must perform the ceremony of *Chalitzah*, but her brother-in-law may not marry her by *Yeboom*.

§ 2. When of two brothers one dies, and the survivor marries his widow by *Yeboom*, and another [third] brother was afterwards born, and the second brother dies, then the widow of the first brother is free, as having been the wife of a brother who had not been contemporary [with the third, or youngest brother], and the widow of the second is also free, as the rival of the first mentioned. If he had only promised her marriage and died, the second sister-in-law must perform the ceremony of *Chalitzah*, but the brother-in-law may not marry her; but R. Simeon says, "[The third brother] may marry by *Yeboom* [in the two last cases], whichever he likes, or cause either to perform to him the ceremony of *Chalitzah*."

§ 3. A rule obtains in respect to marriage by *Yeboom*. Every woman whom it is unlawful to marry, by reason of being within the degrees of relationship forbidden to intermarry, may not perform the ceremony of *Chalitzah*, nor can be married by her brother-in-law by *Yeboom*, and all women who cannot be so married, owing to other legal prohibitions,[2] or on account of holiness of station, must perform the ceremony of *Chalitzah*, but may not be married to the brother-in-law by *Yeboom*. When of two sisters [who had been married to two brothers] one only can be legally married [to a third, or surviving brother], she is bound either to give *Chalitzah*, or to marry that brother-in-law by *Yeboom*.

§ 4. By legal prohibitions [to marry as above mentioned] are meant the secondary degrees of relationship prohibited by the Rabbins to

[1] Before he consummated the marriage.

[2] This is explained in the next section.

intermarry.—Prohibited to intermarry on account of holiness of station are, a widow to a high priest; a woman who had been divorced, or performed the ceremony of *Chalitzah*, who had [unlawfully] been married to an ordinary priest; a person born in adultery, and a daughter of the *Nethinin*[3] married to an Israelite, or a daughter of Israel to a *Nethin*, or to one born in adultery.

§ 5. In every case where there is a surviving brother, though of illegitimate origin, the widow of the deceased brother of such a one becomes subject to the law of *Yeboom;* he also possesses all the rights of a brother, except when he is the son of a bondwoman, or of a strange [i. e. non-Israelite] woman. In every case where there is a son,[4] that son releases his father's wife from the obligation of *Yeboom*, and even if illegitimate, is amenable to the penalties of the law against striking or cursing his father; he possesses, moreover, all the rights of a son, except he were the son of a bond-woman, or of a strange [i. e. non-Israelite] woman.

§ 6. When a person has given קדושין [i. e. betrothing] to one of two sisters, and does no longer know to which of them he gave it, he must give גט, i. e. a letter of divorce to each. If he left at his decease one brother only, that brother must cause both [sisters] to perform *Chalitzah* to him. If he left two brothers, one must have *Chalitzah* performed to him, and the other may marry the sister-in-law by *Yeboom*, but if these brothers had already married the sisters, in anticipation,[5] they are not to be separated from them.

§ 7. When two men [who are strangers to each other] have each of them betrothed one of two sisters, and neither of these men know which sister he has betrothed, then each man must give two *Gets* [letters of divorce] to the sisters. If [the men] died, and each left a brother, these brothers must have *Chalitzah* given to them by both sisters. If one of the men[6] had one brother, and the other two, in the case of one brother only, he must have the *Chalitzah* performed by both sisters; and in that of the two brothers, one must have *Chalitzah* performed to him, and the other brother may marry his brother's widow by *Yeboom*, but if they had already married the sisters in anticipation,[5] they are not to be separated from them. If

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[3] *Nethinim* are the descendants of the Gibeonites, who became proselytes in the time of Joshua.

[4] Even if illegitimate.

[5] Of the judicial decision of the tribunal, and without waiting for it.

[6] Namely, those mentioned in the first proposition.

each man left two brothers, one brother of each pair must have *Chalitzah* performed to him by one of the sisters, and the other brother of each pair can then marry by *Yeboom* one of the sisters released by the *Chalitzah* performed to the other brother. If two brothers had already in anticipation[7] received *Chalitzah* from the sisters, the latter are not to be separated from them.

§ 8. It is proper that the eldest brother should perform the duty of *Yeboom*; yet, if it were done by a younger brother, the marriage is valid. When suspected of carnal intercourse with a bond-woman, or with a non-Israelite woman, he may not marry her, even after [the first mentioned] had been manumitted, or [the last mentioned] had become a proselyte, but if he did marry [any of these women], they shall not be separated; but if a person should be suspected of having had adulterous intercourse with a married woman, who, in consequence, had been separated from her husband judicially, then, even if the said suspected person had already married her, they must be separated.

§ 9. A person who brings to a married woman a *Get* from her husband, from beyond sea,[8] and declares that the said document was duly written and signed in his presence,[9] may not marry that woman. If a person should say to a married woman, "Thy husband is dead," or, "I have murdered him," or, "We have murdered him," such person may not marry that woman; R. Jehudah saith, "If he says, 'I have murdered him,' the woman may not marry at all,[10] but if he said, 'We have murdered him,' she may be married."[11]

§ 10. A חכם [i. e. one learned in the Holy Law] who had declared binding a vow made by a woman against her husband,[12] may

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[7] Of the judicial decision of the tribunal, and without waiting for it.

[8] A distant country. (See Treatise Gittin, chap. I.)

[9] He is bound to make such declaration. (Gittin, chap. I. § 1.)

[10] Neither to the self-accusing murderer, nor to any other person; because the unsupported evidence of a criminal is not admissible, particularly in this case; when, perhaps, he may have charged himself with an imaginary crime, in order to obtain the woman.

[11] To others, not the self-accuser. There is, however, a contradiction in this latter part of the Mishna; for whether such a person committed the crime alone, or in conjunction with others, he is, doubtless, equally guilty; and, therefore, why should his evidence be received in the latter case [and the woman allowed to marry], and not in the former? It is, therefore, explained to mean, that he said, "I was *with those* who murdered him, but did not murder him myself."

[12] See Note 1, page 7.

not marry her; but he may do so in case that woman appeared before him at the tribunal, and there expressed her refusal, or performed the ceremony of *Chalitzah*; and in all the above-mentioned cases, if the men were married at the time [of the prohibition], and their wives died since, they may marry the women prohibited to them before; also, in case these women had, meanwhile, been married to others, and were divorced, or had become widows, the females also prohibited to these men, may marry their sons or brothers.

CHAPTER III.

§ 1. When, of four brothers, two married two sisters, and they who had married the sisters, died: the sisters must give *Chalitzah*, but may not be married to the brothers-in-law by *Yeboom*; and if they had prematurely[1] married them, they must send them away. R. Eleazar saith, "According to Beth Shammai such a marriage is valid; but according to Beth Hillel, they must be separated."[2]

§ 2. If one of these sisters is prohibited to marry one of the brothers, owing to a prohibited degree of relationship between them,[3] [although] he may not marry her, yet may he marry her sister, and both sisters are prohibited to the other brother. If one of these sisters is prohibited only on account of legal prohibition [by the Rabbins], or of holiness of station,[4] she must perform *Chalitzah*, but he may not marry her by *Yeboom*.

§ 3. When one of the sisters is prohibited to marry one brother, and another sister the other brother, owing to prohibited degrees of relationship between them, then she who is prohibited to one brother, may marry the other; and this is the case to which allusion was made [above] where [it] is said, "When, of two sisters, one only can be [lawfully] married by *Yeboom*, she must either perform the ceremony of *Chalitzah*, or be married by *Yeboom*."[5]

§ 4. When, of three brothers, two were married to two sisters,[5]

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[1] There is another reading of this part of our Mishna, in which the prohibition is attributed to Beth Shammai, and the permission to Beth Hillel; as it is generally the case that Beth Shammai prohibit, and Beth Hillel permit, except in the cases mentioned in Treatise Eduyoth.

[2] *Ex. gr.* if she happen to be his mother-in-law, &c.

[3] This is explained in the preceding chapter.

[4] See the preceding chapter.

[5] Namely, one brother to one of the sisters, and another to the other sister.

or to a mother and a daughter, or to a grandmother and her granddaughter, either her son's, or daughter's daughter, then these women must perform *Chalitzah*, but cannot be married by *Yeboom*. R. Simeon releases them from the obligation of *Chalitzah*. If any of these could not be married [to the third brother] on account of prohibited degree of relationship to him, he may not [indeed] marry her; but he may marry her sister. If one of the sisters is prohibited to him, only on account of legal prohibition [by the Rabbins], or on account of holiness of station, she must perform *Chalitzah* to him, but he may not marry her by *Yeboom*.

§ 5. When, of three brothers, two are married to two sisters, and the third brother is unmarried, if one of the married brothers died, and the single brother made a promise of marriage to the widow, and subsequently the second brother died also, in this case, Beth Shammai teach, he must keep his wife [i. e. her to whom he promised marriage], and the other is as sister of his wife, released from the duty of *Chalitzah*; but Beth Hillel decide, he must separate from his wife by *Get* and *Chalitzah*, and from his sister-in-law by *Chalitzah*. To this case was the remark applied: "Unhappy he, for [the loss of] his wife, and unhappy he, for [the loss of] his sister-in-law."[6]

§ 6. When, of three brothers, two are married to two sisters, and one to a stranger:[7] if one of them who married the sisters died, and the brother who had married the stranger marries the widow, and then also dies, the first widow is released, as sister of his wife and the second as her rival, but if he [i. e. the second deceased] had only promised marriage to the widow, the stranger must perform the ceremony of *Chalitzah*; but the brother-in-law may not marry her by *Yeboom*. When, of three brothers, two married two sisters, and the third a stranger: should the brother who married the stranger die, and one of those who had married the sisters, marries the widow, and also dies, the one widow is free, as being a wife's sister, and the other as her rival; but if he only promised marriage to the stranger, and then dies, she must perform *Chalitzah*, and may not be married to her brother-in-law by *Yeboom*.

§ 7. When, of three brothers, two are married to two sisters,

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[6] As would they say, "He is to be pitied for losing thus, without any fault on his part, both his wife and sister-in-law."

[7] By the word "stranger" must be understood, a woman not in any way related to the sisters before her marriage.

and one to a stranger: if one of them who married the sisters died, and he who had married the stranger marries the widow, and then the wife of the second brother dies, and also the third brother, who had married the stranger, then the widow will be for ever prohibited to the second, or surviving brother, because she was for some time prohibited to him [as wife's sister]. When, of three brothers, two were married to two sisters, and one to a stranger, if it should happen that one of those married to the sisters, divorced his wife; and that the brother married to the stranger died, and the widow was married to the brother who gave the divorce, and that this latter also died, then the following rule becomes applicable:[8]—namely, that in all cases where the husbands died, or when the woman had been divorced, their rivals are permitted to marry.

§ 8. In all [the mentioned fifteen classes[9]] where the *Kedushin*, or divorce, is doubtful, the ceremony of *Chalitzah* must be performed by their rivals; but these may not be married by *Yeboom*. What is meant by a doubtful *kedushin* [betrothment]? When the man threw the marriage-bond, and it is uncertain whether it fell nearest to him or to her,[10] then it is a doubtful betrothment. A doubtful divorce is,—when the husband did himself write the letter of divorce, without the signature of witnesses, or that it was signed by witnesses, but with the omission of date, or when it is properly dated, but attested by one witness only,—then is it a doubtful divorce.

§ 9. When three brothers have married three strangers [i. e. not related to each other], and one of the brothers died, and the second brother promises marriage to the widow, and dies:[11] the woman must perform *Chalitzah* to the surviving brother, but he may not marry them by *Yeboom*, for it is said (Deut. xxv. 5), "Her husband's brother shall go in unto her," &c., i. e. her who reverts to him by the death of one of his brothers, but not her who reverts to him by the death of two brothers. R. Simeon saith, "He may marry either, and must have the ceremony of *Chalitzah* performed to him by the other." When, of two brothers married to two sisters, one dies, and afterwards the wife of the surviving brother also dies, then he may never marry his brother's widow; because, there was a time

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[8] See the preceding chapter, § 10.

[9] See chap. I. § 1, of this Treatise.

[10] Compare chap. VIII. § 1, 2, 3, of Treatise Gittin.

[11] Before he consummated the marriage.

when she was prohibited to him, [namely, during the life of his wife, her sister.]

שנים שקדשו שתי נשים · ובשעת כניסתן לחפה החליפו את של זה לזה
ואת של זה לזה · הרי אלו חייבים משום אשת איש · ואם היו
אחין · משום אשת אח · ואם היו אחיות · משום אשה אל אחותה ·
ואם היו נדות · משום נדה · ומפרישין אותן שלשה חדשים · שמא
מעברות הן · ואם היו קטנות שאינן ראויות לילד · מחזירין אותן מיד ·
ואם היו כהנות · נפסלו מן התרומה :

CHAPTER IV.

§ 1. When a person received *Chalitzah* from his sister-in-law, and it was subsequently ascertained that she was then pregnant:[1] if she was delivered of a child she had borne the full period of gestation, he may marry her relations, and she his, nor is she thereby excluded from marrying a priest; but if the child is prematurely born, then he may not marry her relations, nor she his, and she is excluded from marrying a priest.

§ 2. When a person had married his sister-in-law [by *Yeboom*], and she proved to have then been pregnant, the marriage must be dissolved, if she be delivered of a child at the full period of gestation, and both must bring a sin-offering; but if the child is prematurely born, the marriage need not be dissolved; if it be doubtful whether the child was born from the first husband in the ninth month, or from the second, in the seventh month, the marriage must be dissolved, but the child is legitimate, and both must bring the doubtful trespass-offering.

§ 3. In the case of property accruing to a woman, whilst waiting to be married by *Yeboom*, the schools of Shammai and Hillel agree, that she is entitled to sell it or give it away. How are they to act in case of the death of such a woman,[2] with the amount of her dowry to which she is entitled by her *Ketubah*, and the private property she brings in with her [on her marriage], and takes back again [in case of divorce]? Beth Shammai decide, that it must be divided between her husband's, and her father's heirs. But Beth Hillel

[1] Was left pregnant by the first husband, and performed *Chalitzah* within three months of her husband's decease.

[2] After her brother-in-law had promised her marriage, but did not consummate it. Who are her legal heirs?

teach, that her private property remains in its existing power,[3] her marriage portion in that of the heirs of her husband, and the property she brings and takes back with her, in that of her father's heirs.

§ 4. As soon as a brother-in-law has married a woman by *Yeboom* [and consummated the marriage], she must be considered as his wife in every respect, except that the portion allowed her in her marriage contract is to be charged on her late husband's property.

§ 5. The duty of *Yeboom* is obligatory in the first place on the eldest brother; should he refuse, all the other brothers must be applied to; if they also refuse, they must apply again to the eldest, and say unto him, "The obligation is incumbent on you, [therefore] either receive *Chalitzah* from your sister-in-law, or marry her by *Yeboom*."

§ 6. If he delays, under the pretext of waiting till a young brother grows up, or till an older brother returns from beyond the seas,[4] or until a deaf or foolish brother is cured, his excuse is not to be noticed, but they shall say to him, "The obligation is incumbent on you: either receive *Chalitzah* from your sister-in-law, or marry her by *Yeboom*."

§ 7. A person who received *Chalitzah* from his sister-in-law, remains in respect to the inheritance [of his deceased brother's property] upon an equal footing with his other brothers; but if their father is yet alive, he inherits it; but he that married his sister-in-law by *Yeboom* acquires thereby all his brother's property. R. Jehudah saith, "In either case, should the father still be alive, the property devolves on him." When a person has received *Chalitzah* from his sister-in-law, he may not marry her relations, nor she his.[5] He may not marry her mother, nor her grandmother [whether her mother's or her father's mother], her daughter, or grand-daughter, whether of son or of daughter, or her sister, whilst she is alive. His brothers may marry her, but she may not marry his father, nor his grandfather, whether his father's or mother's father, his son, his son's son, his brother, or his brother's son. It is lawful, however, to marry the

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[3] It must be shared among those who have an existing right to it, namely,—her heirs; because the property is derived from her; and also his heirs, as the risk of the property is on them. But the school of Hillel has left it undecided, whether all the heirs are to share alike. (See further, Treatise Ketuboth, chap. III. § 6.)

[4] A distant country, or out of Palestine. See Gitten, chap. I.

[5] As if she were actually his wife.

relations of the rival of the woman from whom a person has received *Chalitzah*, but not the rivals of the relation of the woman from whom he received *Chalitzah*.[6]

§ 8. If the brother of one who had *Chalitzah* performed to him by his sister-in-law, marries her sister and dies, she is bound to perform *Chalitzah*, but may not be married to her brother-in-law by *Yeboom*, but when a person had divorced his wife, and his brother marries her sister and dies, she is released both from *Chalitzah* and from *Yeboom*.

§ 9. In case the sister of a woman in expectation of being married by *Yeboom* to her brother-in-law, should meanwhile have been betrothed to another brother, it is taught in the name of R. Jehudah ben Beterah that they shall admonish him to delay his marriage until the elder brother proceeds to an act [i. e. that of *Yeboom* or of *Chalitzah*]. As soon as he [the elder brother] has received *Chalitzah* from, or married his sister-in-law by *Yeboom*, the other brother may marry his betrothed also, in case the widow should have died; but if the brother-in-law died,[7] he must divorce his betrothed and receive *Chalitzah* from his sister-in-law.[8]

§ 10. Women who have become subject to *Yeboom*, may not proceed to it or to the ceremony of *Chalitzah* until after three months have elapsed [since the death of their husbands], other women also shall not be betrothed nor married [again] till after three months, whether they were virgins[9] or not, whether divorced or widowed,

[6] The reason of this seems to be founded rather on an apprehension that the real facts of the case might be misconceived, or rather misrepresented, than on any real legal prohibition. To explain this rather intricate case, Rashi, Bartenora, and other commentators of the Mishna, have illustrated it by the following example:—Suppose A to be a man who received *Chalitzah* from his sister-in-law B, whose sister C, married to a man not related to the sisters before marriage, has a rival named D; then A may not marry D in the event of her husband's death; because, as both sisters, B and C, appeared before the public tribunal when the *Chalitzah* was performed by B, every one might not be aware of that fact, and may suppose it to have been performed by C, so that if A marries her rival D, who is *the rival of the relation* of her of whom he received *Chalitzah*, people might say he married her rival [which is prohibited], for they suppose that C and D were the wives of the deceased brother of A, because [as they think] A received the *Chalitzah* from C; but this misapprehension cannot take place in case of marrying a sister of the rival, because the women who perform the ceremony of *Chalitzah* before the public tribunal are not in the habit of bringing their rivals with them.

[7] Namely, the eldest, on whom the duty of *Yeboom* is incumbent.

[8] This is limited to the case of his being the only surviving brother.

[9] When she had been only betrothed, and he who betrothed her had died or divorced her.

married or only betrothed. R. Jehudah says, "Women who had already been married may be betrothed immediately, and the betrothed ones married, except the betrothed in Judah, for there the intercourse of the bridegroom with his betrothed is less restrained." R. José says, "All women may be immediately betrothed, except a widow, on account of the mourning [she is bound to observe for her deceased husband]."

§ 11. When four [of a number of] brethren die, who had been married to four women, the eldest [survivor] may marry all four by *Yeboom*, if he wishes it. If a person left two wives at his decease, the marriage by *Yeboom* or *Chalitzah* by one, releases her rival. If one is qualified to be married to a priest, and the other is not; if the brother-in-law receives *Chalitzah*, he must receive it of her who may not be married to a priest; but if he prefers to marry by *Yeboom*, he can take her who is qualified [to be married to a priest].

§ 12. When a person takes back his divorced wife, or one who had married the woman from whom he received *Chalitzah*, or her relation,[10] the marriage must be dissolved, and the issue from such a marriage are bastards, according to R. Akivah; but the sages say they are not bastards: they agree, however, that the child of one who had married a relation of the woman from whom he received *Chalitzah* is a bastard.

§ 13. * * * *
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CHAPTER V.

§ 1. Rabbon Gamaliel saith, "In marriage by *Yeboom* no other letter of divorce is valid after such a one has already been given,[1]

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[10] Which, even as the preceding, is unlawful.

[1] It is necessary to observe, that the Mishna treats here of a case when many wives were left by a deceased brother to the surviving brother, who must perform the *Yeboom*, or when there is but one such a widow, but many surviving brothers. Neither this section, nor, indeed, the whole of this chapter, can be well understood, without attending to the following rules, mentioned in the commentary of Maimonides.

First, that a widow who, agreeably to the law of *Yeboom*, must either be married by her brother-in-law, or must perform *Chalitzah* to him, but is not released so as to enable her to marry again by any *Get* she may have received of her said brother-in-law.

Secondly, that the obligation incumbent on the parties does only then cease, when the said widow has *fully* and *completely* become the wife of her former brother-in-law [i. e. after the marriage has been consummated], and not before,

nor a promise of marriage after such a promise, nor connexion [with another sister-in-law] after such connexion [with a first], and no *Chalitzah* after a first *Chalitzah* had been given." But the sages say, "Another divorce may be given after a first, or a promise of marriage after such a promise, but there cannot be any thing [further of the same nature] after a connexion, nor after a *Chalitzah*."

§ 2. As in the following cases:—When a brother-in-law promised marriage by *Yeboom* to his widowed sister-in-law, and then gives her a *Get*, she will be bound to perform also *Chalitzah* to him.[2] If he promised her marriage, and then received *Chalitzah* from her, she will require a *Get* [in addition] to be fully released. If, after having promised her marriage, he had connexion with her, he acted according to law.[3]

§ 3. If he gave her a letter of divorce, and promised her marriage afterwards, she will require another *Get* and *Chalitzah* [to be fully released]. Also, if after giving her *Get* he had connexion with her; but if, after giving her *Get*, he received *Chalitzah* from her, this latter will be a useless act.[4] If he received *Chalitzah* from her, and then gave her either a promise of marriage, or a *Get*, or had connexion with her, or that the connexion preceded the promise, or the *Get*, or the receipt of *Chalitzah* from her, then neither of these acts are valid after *Chalitzah* has been once performed.[5] It is immaterial in these cases, whether it happened with one sister-in-law, and one brother-in-law, or two sisters-in-law with one brother-in-law.

§ 4. As in the following case:—If a person promised marriage to his two widowed sisters-in-law, they will both require [to enable them to marry another man] a *Get* from him, and he is to receive *Chalitzah*

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so that although he betrothed her either with money, a ring, &c., or with a marriage contract, which on other occasions is considered a binding and valid marriage (see Treatise Kedushin, chap. I, § 1); yet, here it is but partially binding, and it is the same with a letter of divorce [*Get*] given her before consummation of the marriage, which also has the effect of releasing her, but partially only; for it will be necessary that the ceremony of *Chalitzah* be performed before she be finally released; and when such a woman is betrothed, she must first receive a *Get*, and then perform *Chalitzah*, before she will be finally released.

[2] But owing to the divorce he may not marry her by *Yeboom*.

[3] According to the regulations of the sages, that the promise of marriage must precede connexion.

[4] For she is prohibited to him from the moment he gave her the *Get*.

[5] Or after connexion in other cases.

from one of them. If he promised marriage to one, and divorced the other, then the first will require a *Get* and *Chalitzah*. If he promised marriage to one, and then had connexion with the other, both will require a *Get*, and one the *Chalitzah*. If he promised marriage to one, and received *Chalitzah* from the other, the first will require a *Get*. If he divorced both, they will both require *Chalitzah*. If he divorced one, and had connexion with the other, this latter requires both *Get* and *Chalitzah*. If he divorced one, and promised marriage to the other, the last mentioned will require both *Get* and *Chalitzah*. If he divorced one, and received *Chalitzah* from the other, nothing that was done after the *Chalitzah* is valid.

§ 5. If he received *Chalitzah* first from one, and subsequently from another sister-in-law, or after having received *Chalitzah* of one, promised marriage to the other, or gave her *Get*, or had connexion with her, or had connexion, first with one, and then with the other, and gave the last mentioned then[6] a promise of marriage, or a *Get*, or received *Chalitzah* from her, then, all that happened after the *Chalitzah* [or after the connexion] is not valid. It is indifferent whether this happen with one brother-in-law and two sisters-in-law, or with one sister-in-law and two brothers-in-law.

§ 6. If, after receiving *Chalitzah* from his sister-in-law, he promised her marriage, or divorced her, or had connexion with her, and gave her afterwards a promise of marriage, or gave her *Get*, or received *Chalitzah* from her, then no other acts after the *Chalitzah* are valid, be it in the beginning, middle or end [of other acts], but in the case of connexion; whatever took place afterwards is not valid, when it happened at the beginning, but it is valid if it happened in the middle, or end [of other acts]. R. Nehemiah saith, "Nothing is valid either after *Chalitzah*, or after connexion, whether at the beginning, middle, or end of other acts."

CHAPTER VI.

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[6] After the connexion

CHAPTER VII.

§ 1. When a widow who [unlawfully] married a high-priest, or a divorced woman, or one who had given *Chalitzah*, had been [also unlawfully] married to an ordinary priest, and brought their husbands [as a marriage portion] the *usufructum* of slaves עבדי מלוג,[1] or of slaves which are as an iron flock,[2] עבדי צאן ברזל: the first-mentioned slaves may not eat of the heave, but the last-mentioned slaves may eat thereof. The term "*usufructum* slaves," denotes, that the loss of these slaves by death, or the profit that may accrue from them by their increase, are entirely at the risk, or for the advantage of the wife; and, therefore, although the husband is bound to maintain them, yet they may not eat of his heave-offering. Slaves which are as an "iron flock," are such, whose death is the husband's loss, or their increase his profit; and as he has thus the entire risk of them, they may eat of the heave-offering [as if they had been bought by him].

§ 2. When an Israelite woman marries a priest, to whom she brought slaves as her marriage portion, the said slaves may eat of the heave, whether they are *usufructum* slaves, or [as the so called] iron flock; but if a priest's daughter was married to an Israelite, and brought him slaves, whether in *usufruct* or as an iron flock, they may not eat heave.

§ 3. When a priest, who had married an Israelite woman, dies, leaving her pregnant, her [iron flock] slaves may not eat of the heave, on account of the share [or interest] the yet unborn child of

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[1] That is, the property remains vested in the wife, but the husband has, during the marriage, the use of their services; the term מלוג, plucking [of poultry], is here frequently used to describe *usufructum* goods of which a person has the risk; like a person who contracts to pluck the geese of another person, the former has a right only in the feathers, whether much or little, at the risk of the plucking, but has no property in the geese. This term נכסי מלוג, will in future be rendered by us, "*usufructum* goods."

[2] Under this term must always be understood here, a sum, the value of which is immoveably fixed: namely, If a husband receives certain goods, which in the *Ketubah* are valued at a certain sum, that sum, and neither more or less, he is to return, in case of death or divorce, whether he lost or gained by them, and under any circumstances. The term "iron flock," arose from the circumstance of its being usual, in the time of the Mishna, to entrust flocks to a shepherd, at a certain valuation, and at the shepherds entire risk; so that if, through whatever cause, the flock was lost or deteriorated, the shepherd was bound to pay the whole amount valued.

the priest has [in the inheritance of his father], and the heave belongs to the heirs [of the priest[3]]; because an unborn priest's child may indeed disqualify a person to eat of heave,[4] but cannot confer the right to give slaves to eat thereof. Such is the dictum of R. José; but the sages argued against this, and said unto him, "[If so] even as you affirm this in respect to an Israelite woman married to a priest, thus also, even if she were a priest's daughter married to a priest, and had been left pregnant by him at his decease, ought also not to be allowed to eat of the heave, on account of the share of the unborn infant?" [Because the slaves are the property of the unborn infant as being the heir; and, according to R. José, an unborn child cannot confer a right to give slaves to eat of consecrated heave].

§§ 4 & 5. * * * *
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§ 6. A high-priest may occasionally disqualify [his grandmother to eat of the heave], as in the following instance:—when a priest's daughter was married to an Israelite, and bore him a daughter, which daughter married a priest, and had a son by him,—that son will be qualified to be a high-priest, and to minister as such at the altar; he qualifies his mother [at the death of his father] to eat of the heave, but disqualifies his maternal grandmother, who may well pray that "there be not many in Israel like my grandson the high-priest, who disqualifies me from eating of the heave-offering."

CHAPTER VIII.

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CHAPTER IX.

§ 1. There are certain classes of women who, although lawfully married, are, nevertheless, prohibited to marry [in the event of the death of their husbands without issue] their brothers-in-law by *Yeboom*. Others may marry their brothers-in-law, although their

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[3] For only after a priest's child is born, can he confer a right to give the slaves to eat of the heave.

[4] Such as a priest's daughter, who, at the death of her Israelite husband, was left pregnant,

marriage with their deceased husbands was illegitimate. Some, again, are permitted to both husband and brother-in-law; while others are prohibited to both. Lawfully married, and yet prohibited to their brother-in-law, are,—a widow married to an ordinary priest, whose brother is a high-priest; [also] when a desecrated priest, who has a brother properly qualified, marries a qualified priest's daughter; when an Israelite, who has a bastard brother, was married to an Israelite woman; when a bastard marries a bastardess, and he has a legitimate Israelite brother:—all these marriages are indeed legal, but the females may, nevertheless, in case of their husband's death, not marry their brothers-in-law by *Yeboom*.

§ 2. The following women may be married to their brothers-in-law by *Yeboom*, although they had been illegitimately married to their husbands:—when a high-priest, whose brother is an ordinary priest, has betrothed a widow; when a priest, whose brother is a desecrated priest, had married a profane woman; when a legitimately born Israelite has a bastard brother, and marries a bastardess; or a bastard, whose brother is a legitimately born Israelite, married an Israelite woman:—all these may be married to their brothers-in-law by *Yeboom*, although they were [in the first instance] illegally married to their deceased husbands. Prohibited to both husband and brother-in-law are:—when a high-priest married a widow, and his brother also became high-priest, or even if only an ordinary priest; when a qualified priest, whose brother is also qualified, had married a profane woman; when a legitimately born Israelite, who has a legitimate brother, marries a bastardess:—all these [women] are prohibited to both husband and brother-in-law, but every other woman [legally married] may be married by *Yeboom*.

§. 3. In respect to the secondary degrees prohibited by the scribes [see chap. II. § 4], the following is to be observed:—when a woman is related in the secondary degree to her husband, but not to her brother-in-law,[1] she is indeed unlawfully married, but may [if a widow without issue] be married by *Yeboom* to her late husband's brother; if related in the secondary degree to her brother-in-law, but not to her husband, she cannot be married to her brother-in-law by *Yeboom*, although the marriage with her late husband was strictly legal; but if related in the secondary degree to both, she is prohibited to both: such a woman has no right to the portion secured

[1] *Ex. gr.* The maternal grandmother of the husband; whereas his brothers are related to her by her father's side only.

to her by her marriage-contract,[2] nor repayment for the *usufructum* goods she brought to her husband, nor has she a right to her maintenance, and to repayment for the wear and tear [deterioration] of the property of which her husband had the *usufruct;* her offspring however, are legitimate, but the husband must be compelled to divorce her. A widow married to a high-priest; or a divorced woman, or one who had performed the ceremony of *Chalitzah*, married to an ordinary priest; a bastardess, and a female *Netin*, married to an Israelite; and a legitimately-born Israelite woman married to a *Netin*, or to a bastard — have a right to their *Ketubah* [though illegally married.]

§ 4. An Israelite woman who was betrothed to a priest, or is pregnant by one, or is waiting to be married by *Yeboom* to a priest; a priest's daughter also, who is similarly situated in respect to an Israelite, may not eat of the heave; an Israelite woman betrothed to, or pregnant by, a Levite, or waiting to be married to one by *Yeboom;* also a Levite's daughter similarly situated in respect to an Israelite, may not eat tithe. A Levite's daughter betrothed to, or pregnant by, a priest, or one who waits to be married to a priest by *Yeboom;* also a priest's daughter similarly situated in respect to a Levite, may neither eat of the heave-offering, nor of tithe.

§ 5. An Israelite woman married to a priest, may eat of the heave, and also after his death if left with a son by him; if she then married a Levite she may eat tithe, and also, after his death, if left with a son by him. If she married subsequently an Israelite, she may no longer eat either heave or tithe, not even after the decease of her Israelite husband, in case she was left with a son by him; if after his death his son also died, she may eat tithe; when her son from the Levite dies, she may again eat heave, and when her son from the priest also dies, she may not eat either heave or tithes.

§ 6. A priest's daughter married to an Israelite, may not eat heave, even after his death, if left with a son by him; if she married afterwards a Levite, she may eat tithe, also after his death, if left with a son by him: if she was then again married to a priest, she may eat heave; after the death of her son from the priest, she may no longer eat heave; after the death of her son from the Levite she

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[2] Because the marriage is illegal. This want of right to compel the payment of her marriage contract is limited to the sum she actually brought; but she can compel the payment of the תוקפת or voluntary addition by the husband.

may not eat tithe, and if her son by the Israelite also dies, she returns to her father's house. And the text (Lev. xxii. 13) applies to her case, where it is said, "She shall again return to her father's house as in her youth, and shall eat of her father's meat," [i. e. heave, &c.]

CHAPTER X.

§ 1. If a woman whose husband went beyond seas [or on a distant journey], received intelligence of the death of her husband [attested by one witness only], and upon that evidence married again; and it happens, that after such a marriage, the husband [who was supposed to be dead] returns: she must be separated from both husbands,[1] and must receive *Get* of both. She loses, with both, her rights to her marriage contract, maintenance, repayment for the use of *usufructum* goods, and for the wear and tear of such goods, and must restore whatever she received of either husband: on that account the offspring of both marriages are deemed bastards,[2] and neither [husband] has a right to her findings or earnings, nor to annul her vows. If a daughter of an Israelite, she is disqualified to marry a priest; if a Levite's daughter, of the right of eating tithe; and if a priest's daughter, of the right to eat heave; and the heirs of neither husband can claim the amount of her marriage contract.[3] In case of the death of these husbands [before they had divorced her], the brother of one, as well as of the other, must have the ceremony of *Chalitzah* performed to them by her, but neither of them may marry her by *Yeboom*. R. José saith, "The amount of her marriage contract must be charged on the property of her first husband." R. Eleazar saith, "the first husband has a right to her findings, her earnings, and to annul her vows;" R. Simeon says, "Carnal intercourse with her, or the ceremony of *Chalitzah* by the brother of her first huband releases her rival, and a child from her first husband [born at any time] is legitimate; and if she married the second time without requiring legal permission,[4] she may return to the first husband."

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[1] Because, having married illegally, and upon insufficient evidence, she is to be treated as an adulteress in every respect.

[2] In case she returns to the first husband and has then children by him.

[3] See Treatise Ketuboth, chap. IV. § 10.

[4] That is, if she married on the evidence of at least two witnesses.

§ 2. If married to the second husband with consent of the tribunal [Beth Din], the marriage must be annulled [on the return of the first husband], but she need not bring a sin-offering; she is bound to do so [and be divorced] if she married without legal consent.[5] The legal permission [although erroneous] has the power, nevertheless of releasing from the obligation of bringing a sin-offering. But if the Beth Din permitted her to marry, and she married a person to whom she is prohibited to be married,[6] she is bound to bring the sin-offering, because the permission of the Beth Din was intended to apply to a legal marriage only.

§ 3. If a woman whose husband and son are on a distant journey, is told,[7] "Your husband died first, and your son afterwards,"[8] marries again, and is then told the reverse,[9] she must leave her [second] husband's home, and any child from him born before or after this information was received is a bastard. If they told her, "Thy son died first, and thy husband afterwards," upon which she married her brother-in-law by *Yeboom*, and it was afterwards found that the facts were the reverse, she must leave her husband's house,[10] and any child born before or after this intelligence, is a bastard. If they told her, "Thy son died first, and thy husband afterwards," upon which she married, and was afterwards told, "He was alive then, but is dead now," she must separate from her husband, and any child born before this latter information was received is a bastard, but not those born afterwards. If they told her, "Thy husband is dead," upon which she was betrothed to another man, and her husband returns, she may go back to the latter; and even if the second husband should have divorced her, such divorce would not disqualify her to be married to a priest. For thus R. Eleazar ben Matya expounded the text (Lev. xxi. 7), "Priests shall not marry a woman divorced from her husband, that is, they may not marry a woman divorced from her *husband*, consequently, they may marry her who was divorced from a man who was not [yet] her husband."

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[5] Even on the evidence of two witnesses.

[6] For instance, if she was married to a high-priest, who may not marry a widow, &c.

[7] By two competent witnesses.

[8] Which releases her from the obligation of *Yeboom*.

[9] That the son died first, &c., which subjects her to the law of *Yeboom*; this information being received of two witnesses who contradict the testimony of the former.

[10] That is, that of the brother-in-law whom she marries by *Yeboom*.

§ 4. If a man is informed that his wife, who was in a distant country, had died, upon which he married her sister, and the [first] wife comes back, she may again return to him; he may marry the relations of the second wife,[11] and she may marry his: after the death of the first wife, he may again marry the second. If, upon being informed of the death of his wife, he had married her sister, and was then told, "She was alive at that time, but is dead now," then any child born before the receipt of this intelligence is illegitimate, but not those born afterwards. R. José established the following rule: "Whenever a person causes another to incur the prohibition of retaining his wife, he also causes that prohibition to operate against himself in respect to his own wife; and wherever this first mentioned is not incurred, the latter does also not take place."[12]

§ 5. When a man, who had received information of his wife's death, married her sister from father's side only, and upon the receipt of intelligence of the death of this latter, marries her maternal sister;[13] and on the news of the decease of the last mentioned, marries her sister from father's side;[14] and, finally, on the reported death of this latter, marries her maternal sister,[15] and it turns out that all these [five] women are yet alive: then the first, third, and fifth wives are permitted to him, and [in case of *Yeboom*, such women] also release their rivals; but the second and fourth are prohibited to him, and the intercourse with one of them [by the brother-in-law, when the duty of *Yeboom* is incumbent on him], does not release her rivals; but if his[16] intercourse with the second wife had taken place after the death of the first, the second and fourth are permitted to him, and release their rivals; but he may not have the third and fifth in marriage, and intercourse with any one of them does not release her rival.

§ 6, 7, 8, 9. * * * *
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[11] Such as her daughter.

[12] We have rendered this passage according to the Commentaries of Maimonides and Bartenora. The literal rendering of this obscure part is as follows: "Whosoever disqualifies through others, also disqualifies for himself, but whosoever does not disqualify for others, does not disqualify for himself."

[13] Who is a stranger to the first wife.

[14] Who is not related to the second, and, of course, not to the first wife.

[15] Who is not related to the third, and, of course, not to the second and first wives.

[16] Namely, that of the husband of the five women.

CHAPTER XI.

§ 1. A man may lawfully marry the near relatives of a woman whom he has violated or seduced,[1] but he who has either violated or seduced the near relatives of his wife, has become guilty of incest. A man may marry a woman who had been violated or seduced by his father, or one who had been thus treated by his son. R. Jehudah prohibits a son to marry a woman who had been violated or seduced by his father.

§ 2. When the sons of a female proselyte have adopted the Jewish faith at the same time with their mother [and one of them dies without issue], his brother is not bound to *Yeboom*, nor to receive *Chalitzah* [from the widow of his deceased brother].[2] Even when the first was conceived before she participated in the holiness [of the Jewish community], but was born under the Holy covenant, and that the other brother was both conceived and born under the Holy covenant. The same regulation applies to a bondwoman whose children were manumitted along with her.

§ 3. When the sons of five women have become intermixed with each other [and each woman has another son, of whose identity she is certain], when these mixed sons have grown up, married, and died [without issue], then four of the surviving brothers shall cause the widow of one to perform *Chalitzah* to them, and the fifth brother may marry the widow; then shall he and three other brothers receive *Chalitzah* from another widow, whom another brother may marry by *Yeboom* [and in the same manner with the remainder], so that each of these widows must perform the ceremony of *Chalitzah* four times, and can then be married by *Yeboom*.

§ 4. When the son of a woman has become interchanged with that of her daughter-in-law [and each of them has another son, or sons, besides], which sons grew up, married, and died [without issue], then the other sons of the widowed daughter-in-law shall receive *Chalitzah* [from one widow] but may not marry her by *Yeboom*, because it is doubtful whether she was his brother's wife or that of

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[1] Such as her mother, daughter, or sister, because as there was no lawful marriage there cannot be the guilt of incest incurred by connexion with her relatives.

[2] Because their relationship dated from a time when the Mosaical law was not binding upon them.

his father's brother; but the sons of the grandmother may either marry her by *Yeboom*, or receive *Chalitzah*, because the doubt in this case is only whether she was wife of his brother, or of his brother's son; but if the sons whose descent is undoubted die, then those of doubtful descent who were interchanged, must have the ceremony of *Chalitzah* performed to them by the widow of the grandmother's son, but may not marry her by *Yeboom*, because it is doubtful whether she is the brother's wife or that of his father's brother, the widowed daughter-in-law need only perform the ceremony of *Chalitzah* to one of those who were interchanged, and may then marry the other by *Yeboom*.

§ 5. When the son of a woman married to a priest, was interchanged with that of her bondwoman, both [sons] may eat of the heave, but when both happen to present themselves at the same time at the threshing-floor, they shall receive but one share of the heave; they may not defile themselves with a dead body, and may not marry women who are either qualified or disqualified to be married to a priest.[3] But when they have attained their majority, and have mutually manumitted each other, they may marry the women only who are qualified to be married to the priesthood, and may not defile themselves with a dead body; but if they did so, the forty stripes are not to be inflicted on them. They may not eat heave, but if they did eat it, they need not pay back the principal [of the value they had eaten], and an additional fifth, nor has either of them a share [in the division of heave among the priests] at the threshing-floor, but they are allowed to sell their own heave, and keep the money themselves.[4] They have no share of the consecrated things of the Temple;[5] consecrated things are not given to them,[6] nor are these consecrated things exacted from them. They are, moreover, not bound to give the shoulder, the two cheeks, and maw of their own offering to the priests. Their first-born cattle must be left to pasture, till they contract a legal blemish, and with respect to their sacrifices, the most stringent regulations in force in respect to that[7] of priest and Israelites, are to be applied to them.

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[3] Because those that are qualified may not be married to a slave, and those that are disqualified may not be married to a priest. All this applies only during the minority of these two sons.

[4] They need not give it to any priest.

[5] Such as the skins of the animals sacrificed, which were shared among the priests.

[6] Such as the first-born of cattle, &c.

[7] This applies more particularly to the meat-offering.

§ 6. If a woman who did not wait three months [to re-marry] since the death of her husband [or since her divorce], should marry within that time, and has a son born unto her of whom it is doubtful whether he was a nine months' child by the first husband, or a seven months' child by the second; if she had other sons by the first and second husbands, then these sons must, in case of the decease [without issue] of their brother, to whose birth doubt attached, receive *Chalitzah* from his widow, but may not marry her by *Yeboom;* and he also may only receive *Chalitzah* from any of his brother's widows, but may not marry them by *Yeboom;* but if he had half-brothers, either of her first or second husband, who are not sons of his mother, he may in that case[8] either receive *Chalitzah* of his brother's widow, or may marry her by *Yeboom.* In respect to his brothers, one of them must [in case of his death without issue] receive *Chalitzah* from his widow, and then may another brother marry her by *Yeboom.*

§ 7. If one [of the two husbands of the said woman] is an Israelite, and the other a priest, the son may only marry a woman qualified to be married to the priesthood. He may not defile himself with a dead body; but if he did so, the punishment of forty stripes is not to be inflicted on him; neither may he eat of the heave; but if he did so, he is not bound to pay the value of the principal and an additional fifth part. He also shall not receive a share of the priestly oblation at the threshing-floor; he may sell his own heave, and keep the money for himself. He has no share in the consecrated things of the Temple, nor shall consecrated things be given to him; yet, those belonging to himself cannot be claimed, or exacted from him [by the priests]. He is also free from the payment of the two cheeks, the shoulder, and maw of his own sacrifice [to the priests]; and his first-born cattle must be left to pasture till it contracts a legal blemish, and the most stringent regulations [regarding sacrifices] of priests and Israelites, are to be applied in respect to his sacrifices. If both [the husbands of his mother] were priests, he is bound [in case of death] to mourn for them, and they for him; he may not defile himself with their dead bodies, nor may they defile themselves with his; he is no heir to them, but they inherit his property. The punishment attached to the crime of striking, or cursing a father, cannot be inflicted on him.[9] He may serve in the priests' division of

[8] When there are no other brothers.

[9] In case he transgressed with either father in that respect, when he has the

service at the Temple, of one and of the other, but he does not participate in the share of either, but if both belonged to one division [משמרה], he is entitled to one share.

CHAPTER XII.

§ 1. The ceremony of *Chalitzah* must take place before three judges, who may be laymen.[1] If it is performed with a shoe,[2] it is valid, but not if with a shoe made of felt, or of cloth. The *Chalitzah* is also valid when it is performed with a sandal which has a leather strap at the heel, but not if it is not furnished with such a strap. If it is tied under the knee, it is valid, but not if it was tied above the knee.

§ 2. If *Chalitzah* was performed with a sandal which does not belong to the man, or with a wooden sandal [covered with leather], or on the right foot, with a sandal belonging to the left foot, it is valid. If with a sandal which is too large, but with which the man may walk nevertheless, or with one too small [to cover the whole foot], but which nevertheless covers the greater part of the foot, the *Chalitzah* is valid. If that ceremony was performed at night it is valid, but R. Eleazar declares it void. A *Chalitzah* performed on the left foot is void, but R. Eleazar declares it to be valid.

§ 3. If the woman took off the shoe, and did expectorate [before the brother-in-law], but did not pronounce the words [necessary to be spoken on that occasion], the *Chalitzah* is valid; if she spoke the words and expectorated, but did not take off the shoe, the *Chalitzah* is valid; if she took off the shoe and spoke the words, but did not expectorate, the *Chalitzah* is void, according to R. Eleazar; but valid according to R. Akivah. R. Eleazar thus expounds the text (Deut. xxv. 9), "Thus shall it be *done*," &c. viz.' "All acts there prescribed must be performed, and the omission of any renders the *Chalitzah* void." But R. Akivah replied, "The same text affords a proof of my opinion, for it is there stated, 'Thus shall it be done to the *man;*' which proves that it only relates to the acts of the man."[3]

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benefit of the doubt; but should he strike or curse both fathers at the same time, he is guilty, inasmuch as it is certain that his real father is one of the two.

[1] Men who are not the regularly appointed judges of the town.

[2] Made of soft or thin leather.

[3] That is, if the match is unequal from disparity of age, they shall advise him to receive *Chalitzah* instead of marrying his sister-in-law by *Yeboom*, as otherwise his domestic felicity may be seriously compromised hereafter, all which they are to represent to him, and when the match is a suitable one in point of

§ 4. When a deaf and dumb man had performed to him the ceremony of *Chalitzah*, or if a deaf and dumb woman performed it, or when a woman performed it to a minor, the *Chalitzah* is void. A female who, during her minority performed a *Chalitzah*, must repeat it on attaining her majority, otherwise the first *Chalitzah* is void.

§ 5. When a woman gave *Chalitzah* in the presence of two, or even of three judges, if one of them happens to be related to her, or incompetent to give evidence, the *Chalitzah* is void: but R. Simeon and R. Jochanan Hasandelar declare it valid. It happened once that a man received *Chalitzah* from a woman in a prison, where none but themselves were present, and when that case was submitted to R. Akivah, he declared it a valid *Chalitzah*.

§ 6. The due performance of the precept of *Chalitzah* is as follows:—The man and his sister-in-law shall appear before the tribunal [Beth Din] who are to advise him according to circumstances, for it is said (Deut. xxv. 8), "The elders of his city shall call him, and speak unto him," &c., she shall say (Deut. xxv. 7), "My husband's brother refuseth to raise up unto his brother a name in Israel, he will not perform to me the duty of a husband's brother." He shall then say, "I like not to take her (Deut. xxv. 8)." This was always said in the Holy language [Hebrew], "Then shall the brother's wife come unto him, and spit out before him;" viz. so that the judges can plainly see her expectorate. Then shall she answer and say, "So shall it be done with the man that will not build up his brother's house" (Deut. xxv. 9). Thus far was it read formerly, but when R. Hyrcanus had the whole passage[4] read under an oak in the village Atam [עיטם], it became customary ever after to read the whole section. The injunction of the law (Deut. xxv. 16), "His name shall be called in Israel the house of him that hath his shoe loosened," is obligatory on the judges only,[5] but not on the disciples present; but according to R. Jehudah, it is incumbent on every one present at the ceremony to call out three times [חלוץ הנעל], Unshod one! Unshod one! Unshod one!

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age, they shall advise him to marry his sister-in-law by *Yeboom*, in preference to receiving *Chalitzah* from her.

[4] Till the end of verse 10.

[5] That is, *they* are bound to call him so publicly, but no one else.

CHAPTER XIII.

§ 1. Beth Shammai hold that the right of refusal [מיאון][1] is permitted to those who are betrothed only; but Beth Hillel extend it to those [minors] also who had been married [under the nuptial canopy].[2] According to Beth Shammai [the right of refusal] is only available against the husband, but not against the brother-in-law [in case of *Yeboom*]; but Beth Hillel permit it against either. Beth Shammai will only allow [the refusal] when it was made in the presence of the husband; but Beth Hillel permit it in his absence, as well as in his presence. Beth Shammai require the refusal to be made [formally] before a Beth Din [tribunal]; but Beth Hillel consider a refusal not made before a tribunal sufficient. Beth Hillel said to Beth Shammai, "A girl may thus, during her minority, refuse four or five men." But the school of Shammai replied, "The daughters of Israel are not to be thus loosely dealt with, therefore, as soon as such a girl expressed her refusal, she must wait [to be again betrothed] till she has attained her majority, or expressed her refusal of the man to whom she is betrothed,[3] and marries another immediately.

§ 2. What minor [orphan girl] is bound to make a formal refusal? She who, with her consent, was married by her mother or brothers, but when she had been married by them without her consent, she need not, to annul this marriage, pronounce a formal refusal. R. Hanina ben Atignos saith, "Any child who was then[4] incapable of taking care of the money, &c. [given her as her marriage bond] is also not required to make a formal refusal." R. Eleazar saith, "The act of a minor is a nullity, and such a girl can only be considered in the same light as one who had been seduced. Should she be the daughter of an Israelite, and he a priest, she may not eat heave, but if she is a priest's daughter, and he an Israelite, she may eat thereof."

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[1] Namely, that of an orphan girl, who, during her minority, was betrothed by her mother or brothers, and who, on attaining her majority, has a right to refuse her consent, and render the betrothing void.

[2] Which completes the marriage.

[3] According to the school of Shammai she is not entitled to refuse again.

[4] When she is under the age of six, or even of ten years, in case she is innocent, and did not well know the meaning, or was not aware of the extent of the engagement she had entered into.

§ 3. R. Eleazar ben Jacob saith, "When the prolonged stay of such a woman[5] [who had been divorced from her husband] is owing to affection for him, she must be considered as his wife; but if it did not proceed from that cause,[6] she is not to be considered as his wife.

§ 4. When such a female has once formally expressed her refusal [of the man she was betrothed to], he may marry her near relatives, and she may marry his, and she is not disqualified from being married to one of the priesthood; but if he divorced her, he may not marry her, nor she his near relatives, and she is disqualified to be married to a priest. If he divorced her, and then desired to take her back, when she formally refused him, and married another from whom she was subsequently separated, or became a widow, the first husband may take her back; but if she had expressed her refusal, and the man took her again and then divorced her, upon which she was married to another, and became a widow, or was divorced, then the first husband may not take her back; the rule is when a *Get* was given after a declaration of refusal, he may not take her back, but he may do so if the refusal was posterior to the *Get* in point of time.

§ 5. When a woman who expressed her refusal of a man to whom she was betrothed, was married to another, and divorced by him; then again to a third, whom she refused, and thereupon married a fourth, by whom she was divorced; then again to a fifth, of whom she expressed a refusal: then is she not allowed to return to any of the men who had divorced her, but she may return to one of those whom she had refused.

§ 6. If a person divorced his wife and took her back, his brother may [at his decease without issue] marry her by *Yeboom;* but R. Eleazar prohibits this. Thus also may an orphan who had been divorced, and taken back, be married by *Yeboom;* but R. Eleazar prohibits this also. A female who, in her minority had been given in marriage by her father, and received a *Get*, is to be considered an orphan, even during her father's life. All agree, however, that in case he [i. e. the man from whom she was divorced] took her back she may not [at his desire] be married to his brother by *Yeboom.*

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[5] Namely, the orphan who had been betrothed in her infancy, &c., who had not refused the husband intended for her, but had been rejected and divorced by him.

[6] When she expressed her refusal, and insisted on having her engagement annulled.

§ 7. When two brothers are married to two sisters who are minors and orphans, and the husband of one dies, then the widow is released from *Yeboom*, as the sister of the brother-in-law's wife; also when both females are deaf and dumb. When one of the sisters has attained her majority, and the other is yet a minor, should the minor's husband die, she is released from *Yeboom*, as sister of the brother-in-law's wife. R. Eleazar says, "When the husband of the elder sister dies, the youngest sister must be instructed to refuse."[7] Rabbon Gamaliel saith, "If she refuses, it is well; if not, let her wait till she attains her majority; and then her sister will be released as a wife's sister." R. Joshua saith, "Such a man deserves commiseration, on account of his own wife, and his sister-in-law, because he must part with his wife by a *Get*, and is bound to receive *Chalitzah* from his sister-in-law.

§ 8. When a person who had married two orphans[8] in their minority dies, then the connexion which the surviving brother may have with one of them, or the *Chalitzah* he received from one of them, does also release her rival. The same applies in respect to deaf and dumb females;[9] but if one of the females is a minor, and the other is deaf and dumb, connexion with one does not release her rival. When one is sound, [i. e. neither deaf or dumb], and the other deaf and dumb, then does connexion with the sound one release her who is deaf and dumb, but not on the reverse case. If one has attained her majority, and the other is a minor, connexion with the eldest releases the younger, but not in the reverse case.

§ 9. When the husband of two orphans who are minors dies, and that the brother on whom the obligation of *Yeboom* devolved, had connexion first with one and then with the other, or that one of his brothers had connexion with the other sister-in-law, the first is not thereby disqualified to remain his wife.[10] The same applies to the case of two deaf and dumb women under the same circumstances.

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[7] And as her marriage thus becomes void, her husband may marry her sister.

[8] Who are not related.

[9] This must be understood as limited to the connexion with the brother-in-law, but not to the *Chalitzah*, which a deaf and dumb woman is not qualified to perform.

[10] The reason is this, either the marriage with these minors is legal, or it is not; if it is legal, then the first becomes at once the brother-in-law's lawful wife by *Yeboom*, by the act of connexion with him; and the connexion he had with the second is unlawful connexion; and if the marriage was illegal, then both widows are only strangers to the supposed brother-in-law.

If one of the females is a minor, and the other deaf and dumb, and the brother on whom the duty of *Yeboom* devolved had connexion first with the minor, and then with the deaf and dumb one, or that a brother of his had connexion with this latter, the minor is not thereby disqualified to remain his wife, but if he had connexion first with the deaf and dumb one, and then with the minor, or that his brother had connexion with the minor, the deaf and dumb became disqualified to be his wife.

§ 10. When one of the females is sound [i. e. not deaf and dumb] and the other deaf and dumb, and the *Yabam*[11] had connexion with the first mentioned, and afterwards with the last mentioned of his sisters-in-law, or that his brother had connexion with the latter, the sound one has not thereby become disqualified to be his [the *Yabam's*] wife. If he had connexion first with the deaf and dumb woman, and then with the sound one, or that his brother had afterwards connexion with the sound one, the deaf and dumb female is disqualified.

§ 11. When one of the females is of age, and the other a minor, if the *Yabam* had connexion with the elder, and then with the minor, or that his brother had connexion with the latter, the elder is not disqualified. If he had connexion first with the minor, and then with the elder, or that his brother had connexion with this latter, the minor is disqualified. R. Eleazar saith, "The minor is to be instructed to make use of her right of refusal."

§ 12. When the *Yabam* and his sister-in-law are both minors, and had connexion together, they must grow up with each other [i. e. the *Yabam* has not the power to divorce her during his minority]. If the widow had then attained her majority, she must wait till he has attained his. If the widow declares within thirty days [after the marriage by *Yeboom* has taken place] that her husband has not consummated the marriage, he will be compelled to allow her to perform to him the ceremony of *Chalitzah*. When she made the mentioned declaration after the expiration of the thirty days, he is to be requested to allow her to perform *Chalitzah* to him; but when he admits the truth [of her accusation of the non-consummation of the marriage] he will be compelled even after a twelve month, to allow her to perform to him the ceremony of *Chalitzah*.

§ 13. When a woman made a vow during her husband's life not

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[11] This word signifies the brother-in-law, on whom the duty of *Yeboom* has devolved, by the death of his brother without issue.

to receive any benefit whatever from the brother-in-law on whom the duty of *Yeboom* devolves, the latter will be compelled to allow her to perform the ceremony of *Chalitzah* to him: if she made this vow after the death of her husband, he is to be requested to allow her to perform *Chalitzah* to him; but when she made the vow with the intention of being thereby freed from the claim the brother-in-law has on her, he is in that case merely to be requested to allow her to perform to him the ceremony of *Chalitzah*.

CHAPTER XIV.

§ 1. When a deaf and dumb man marries a sound[1] woman, or a sound man marries a deaf and dumb woman, he may either divorce his wife or keep her, and even as he married her by certain signs [made before witnesses] thus may he divorce her in the same manner. A sound man who had married a sound woman, who afterwards became deaf and dumb, may either divorce or keep her as he pleases, but if she became afflicted with madness, he is not at liberty to divorce her. Should he become deaf and dumb, or mad, he may not divorce her at all. R. Jochanan ben Noori asked, "Why may a woman who became deaf and dumb be divorced, and a husband who thus became affected may not divorce his wife?" They [the sages] replied unto him, "Because there is a material difference in this respect between the two parties, for a woman may be divorced with or without her consent, but the man's consent is necessary to render a divorce valid."

§ 2. R. Jochanan ben Gudgodah testified [to have been taught], "That a deaf and dumb female, who, in her minority, had been disposed of in marriage by her father, may be divorced by the delivery of a *Get* to her." They [the sages] said unto him, "This also is applicable to the case where the loss of hearing and speech occurs after marriage."

§ 3. When two brothers who are deaf and dumb are married to two women in the same state, who are sisters to each other, or to two sisters who are sound, or that one is sound and the other deaf and dumb, or two deaf and dumb sisters married to two brothers who are sound, or to two brothers who are thus afflicted, or that one of

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[1] Observe, that wherever in this chapter the word "sound" is mentioned, as applied to either man or woman, it signifies a person who is in possession of the faculties of hearing and speech.

the brothers is deaf and dumb, and the other sound, then in all the mentioned cases the sisters are released from the obligation of *Yeboom* and of *Chalitzah*. When the deaf and dumb females are not related to each other, the surviving brother must marry the widow by *Yeboom*,[2] but may divorce them afterwards.[3]

§ 4. If two brothers, one of whom is deaf and dumb, and the other not so, should marry two sound women, and the deaf and dumb husband dies, what must the [surviving] sound brother who had married the sound sister do? [Nothing] because his brother's widow is free from *Yeboom*, as sister of his wife. If the sound man married to the sound woman die, what must the surviving deaf and dumb brother married to the sound sister do? He must separate from his wife by a *Get*, and his brother's widow will be for ever prohibited to re-marry.[4]

§ 5. When two sound brothers are married to two sisters, one of whom is deaf and dumb, and the other sound; when the sound man married to the deaf and dumb woman dies first, what must the [surviving] sound man married to the sound sister do? [Nothing] because the widow is released as being his wife's sister. When the sound man married to the sound sister dies first, what must the [surviving] sound brother married to the deaf and dumb sister do? He must separate from his wife by a *Get*, and from his sister-in-law by *Chalitzah*.

§ 6. When two brothers, one of whom is deaf and dumb, and the other sound, are married to two sisters, one of whom is deaf and dumb, and the other sound, if the deaf and dumb husband of the deaf and dumb woman die first, what must the sound husband of the sound woman do? [Nothing] because the widow is released as his wife's sister. If the sound husband of the sound woman die first, what must the deaf and dumb husband of the deaf and dumb woman do? He must separate from his wife by a *Get*, and his brother's widow is for ever prohibited to re-marry.

§ 7. When two brothers, one of whom is deaf and dumb, and the other sound, are married to two sound women not related to each

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[2] He cannot receive *Chalitzah* from her, as that ceremony can only be performed by persons who are in possession of their faculties of hearing and speech.

[3] By giving her *Get*, which he may do by signs or gestures, indicative of his assent.

[4] For the brother-in-law can as a deaf and dumb person not receive *Chalitzah* from her.

other, and the deaf and dumb husband of the sound woman dies first, what must the [surviving] husband of the sound woman do? He must either receive *Chalitzah* of his brother's relict, or must marry her by *Yeboom*. If the sound brother, husband of the sound woman, happen to die first, what must the [surviving] deaf and dumb brother, husband of the sound woman do? He must marry her, but has not the power ever to divorce her.

§ 8. When two sound brothers are married to two women not related to each other, one of whom is sound, and the other deaf and dumb, when the sound husband of the deaf and dumb woman dies first, what must the sound husband of the sound woman do? He must either marry his brother's relict, or divorce her as he pleases. When the sound husband of the sound woman dies first, what must the sound husband of the deaf and dumb woman do? He must either receive *Chalitzah* from his brother's relict, or must marry her by *Yeboom*.

§ 9. When two brothers, one of whom is deaf and dumb, and the other sound, are married to two women not related to each other, one of whom is deaf and dumb, and the other sound, should the deaf and dumb husband of the deaf and dumb woman die first, what must the sound husband of the sound woman do? He must marry his brother's relict by *Yeboom*, but may divorce her afterwards. When the sound husband of the sound woman dies first, the deaf and dumb husband of the deaf and dumb woman must marry her without being at liberty to divorce her.

CHAPTER XV.

§ 1. When a woman departed with her husband to a distant country, and they had there lived peaceably together, and peace also prevailed in the world, should the woman return and say, "My husband died [abroad]," she may marry again, or in case of *Yeboom*, be married accordingly to her late husband's brother. Should this married couple have lived peacefully together, but that war had then prevailed in the world, or that they had disagreed with each other, but peace prevailed in the world, her evidence [of her husband's death] is not to receive credence.[1] R. Jehudah says, "She is in no

[1] Because under the mentioned circumstances it is to be apprehended that she made this allegation to become separated from a husband with whom she disagreed, or that in time of war she might allege that which amounts only to

instance to be believed, except when she appears crying, and with rent garments." The sages said to him, "This is not of any consequence [whether she appears weeping or not], she may re-marry."[2]

§ 2. Beth Hillel say, "We have heard this applied only in a certain case, where the woman came back from harvest, and in the province only in which the occurrence[3] took place." But Beth Shammai replied to Beth Hillel, "It is immaterial whether the woman came back from wheat harvest, olive gathering, the vintage, or from another country; the word 'harvest' was used by the sages for no other reason, than because the occurrence thus happened." Then Beth Hillel abandoned their former opinion, and adopted that of Beth Shammai.

§ 3. According to Beth Shammai, such a woman may marry again, and receive the amount of her *Ketubah*, but Beth Hillel hold, she may marry, but has no claim to her *Ketubah*. Beth Shammai said unto them, "You permitted [the possible case of the commission of] the grave sin of adultery,[4] and yet you refuse your permission in money matters,[5] which are of such minor importance." Beth Hillel replied, "[We decided thus,] because we find that her husband's brothers cannot succeed to the estate of their deceased brother on her unsupported evidence." Beth Shammai answered, "The sum which her husband promised her we learn from her marriage-contract.[6] For thus it is there stated: 'In case thou shouldst marry another husband, thou art to receive what is here assigned to thee.'" Then Beth Hillel abandoned their former opinion, and taught like Beth Shammai.

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presumptive evidence as certain; *ex. gr.*, if her husband promised her to return at a certain time, and did not, when she presumed him to have been slain, or that she saw him wounded, and thought he was killed, it being possible that he may yet return, or be cured.

[2] For otherwise an artful woman who pretended to cry, &c. might have an undue advantage over an artless one.

[3] This occurrence, to which frequent allusion is here made, was, that a man while engaged in the wheat harvest, was killed by the bite of a venomous snake. The wife alleged this to the *Beth Din*, and when on examination they found this allegation to be true, they permitted her to marry again, and decreed that henceforth the [unsupported] evidence of a wife may, in a similar case, be received as valid.

[4] By granting her permission to re-marry, when her husband may perhaps be alive, and her evidence be a false one.

[5] Namely, the amount of her *Ketubah* assigned to her at her marriage with the former husband.

[6] That is, our opinion is founded on the very wording of the *Ketubah*.

§ 4. Every one is deemed a trustworthy witness to testify to a woman, concerning her husband's decease, except her mother-in-law, the daughter of the latter, her own rival, her sister-in-law, or her husband's [or step] daughter.[7] Why is this distinction made between the evidence [of a wife] who alleges to have received a divorce from her husband, and one who bears witness to his decease?—Because the written document[8] proves the matter [more satisfactorily]. If one witness said, "Your husband is dead," upon which the widow received permission to marry again, though another witness should subsequently contradict this evidence, and say, "Your husband is not dead," she does not lose her right to re-marry, but when a witness, [incompetent to give evidence] should say, "He is dead," and two witnesses [in the same predicament] should afterwards say, "He is not dead," she must even when she was already married [upon the first evidence], have that [last] marriage dissolved. When two [such] witnesses say, "He is dead," and another [such] says, "He is not dead," then, even when she did not marry upon the evidence of the first-mentioned, she may marry after, notwithstanding the last evidence.

§ 5. When one [of two wives coming from a distant country] says, "Our husband is dead," and the other, "He is not dead," she, who averred to his decease, may marry again, and is entitled to the sum assigned to her in her *Ketubah*, but she who made the contrary averment, may neither marry, nor is entitled to the amount of her *Ketubah*. When one wife declared their husband died [naturally], the other, that he was murdered, R. Meir holds that they may not marry, owing to this discrepance in their evidence, but R. Jehudah and R. Simeon opine, that since both agree in the fact of his being no longer alive, they may marry again. Should one witness say, "The man is dead," and another testify to the contrary effect, or that one woman says, "He is dead," and another, "He is not dead," the wife may not marry again [upon this evidence].

§ 6. When a woman and her husband had gone to a distant country, and the woman returns, and says, "My husband is dead," she may marry again, and is entitled to the amount of her marriage contract, but her rival may not re-marry [upon her evidence

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[7] Because these females are suspected of bearing her ill will, and may wish to bring her to shame.

[8] Namely, the *Get* she alleges to have been written and signed in her presence.

alone]. If this latter is an Israelitess married to a priest, she may, according to R. Tarphon, continue to eat heave, but R. Akivah says, "This is not the proper way to keep her from transgression. She must be prohibited to marry, and also to eat heave [any longer]."

§ 7. Should a wife say, "My husband died first, and my father-in-law afterwards," she is entitled to marry again, and to receive the amount of her *Ketubah*, but not her mother-in-law, and if this latter was an Israelitess married to a priest, she may, according to R. Tarphon, continue to eat heave; but R. Akivah saith, "This is not the proper way to keep her from transgression. She must be prohibited to re-marry, and also to eat heave." If a person had betrothed one of five women, and did not know with certainty which of them he had betrothed, and each of these women claims to be the betrothed one, he must give a *Get* to each, and deposit the amount of a *Ketubah*,[9] when he has no further responsibility. Such is the dictum of R. Tarphon, but R. Akivah says, "This is not the proper way to preserve him from transgression. He must give a *Get* and the amount of a *Ketubah* to each woman." A thief who had robbed one of five persons, and does not know which, each of the five declaring that he was the person robbed, must deposit the amount of the theft [with the tribunal, for their decision], after which he has no further responsibility. Such is the dictum of R. Tarphon, but R. Akivah saith, "This is not the proper way to preserve him from transgression. He must pay to each the value of the theft."

§ 8. When a woman went with her husband and son to a distant country, and she returns and says, "My husband died first, and my son afterwards," she is to be believed,[10] but if she said, "My son died first, and afterwards my husband," she is not to receive entire credence for her words, and only in so far to be regarded, that she is only permitted to perform *Chalitzah* to her brother-in-law, but cannot be married to him by *Yeboom*.

§ 9. When she says, "A son was born unto me abroad, who died, and then my husband also died," she is to receive credence, but if she said, "My husband died first, and then my son," she is not to be credited, yet her words are so far regarded, that she is only permitted to receive *Chalitzah* from her brother-in-law, but cannot be married to him by *Yeboom*.

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[9] With the *Beth Din*, and leave it to their decision to give it to her who may be best entitled to it.

[10] And released from the law of *Yeboom*.

§ 10. If she says, "A brother-in-law was there born to me,"[11] and adds, "My husband died first, and then my brother-in-law," or, "My brother-in-law died first, and then my husband," she is to be believed. If she went abroad with her husband and brother-in-law, and says on her return, "My husband died first, and then my brother-in-law," or, "My brother-in-law died first, and then my husband," she is not to be believed. For a woman is not entitled to full credence when she says, "My brother-in-law dies," as [it is possible] she makes that assertion only [to be permitted] to marry again. Neither when she says, "My sister died," so as to enable her to be married to her brother-in-law. A man also is not to be believed on his own assertion, when he says, "My wife died," as it is possible he may wish to marry her sister.

CHAPTER XVI.

§ 1. When a woman, whose husband and rival had gone to a distant country, is acquainted that her husband was dead, she may neither marry [strangers] nor her brother-in-law by *Yeboom* until she has ascertained whether that rival was left pregnant, or not. But if she had a mother-in-law [abroad], she need not apprehend,[1] lest that mother-in-law might have brought forth a son,[2] but if her mother-in-law was pregnant at the time of her departure, she is bound to notice it.[3] But R. José declares it unnecessary.

§ 2. When both wives of two brothers say severally, "My husband is dead," neither may re-marry, because it is to be apprehended in respect to each of them, that the husband of the other may [possibly] be yet alive. If one has witnesses, and not the other, she who has witnesses may not re-marry,[4] but the other wife may.[5] If one has children, and not the other, she who has children may marry again, but not she who has no children. When these women had married

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[11] Namely, a brother of her husband, which subjects her to *Yeboom*.

[1] To re-marry.

[2] In which case she became subject to *Yeboom*, and could not marry any one else till she had performed *Chalitzah* to him.

[3] That is, she must wait for positive information whether her mother-in-law brought forth a son before she can re-marry, or is bound to wait for *Chalitzah* or *Yeboom*.

[4] Because the rule is that the evidence of one sister-in-law is not available in this matter to the other.

[5] Because her own evidence suffices to prove the death of her own husband, and that of the brother-in-law is proved by the evidence of the witnesses.

two brothers by *Yeboom*, and these husbands also died, they may not re-marry, but R. Eleazar saith, "Having once been permitted to marry their brothers-in-law, this permission [to re-marry] extends to all men."

§ 3. The testimony of a witness [as to the identity of an alleged deceased married man], is only then valid, when he testifies that he recognised the physiognomy with the nose[6] of the deceased, although the witness mentioned other particular signs in the person or dress [of the deceased]. Testimony can only be received of one who had seen the deceased after he had actually given up the ghost, and is not admissible when the witness only saw him mortally wounded, or hanging, or that he was being devoured by a wild animal. The identity of the person can only be vouched for, when the witness saw him within three days after his decease, but R. Jehudah ben Baba observes, "This is not the same for all people, places, or seasons."[7]

§ 4. If a man fell into the water, whether that was limited in extent,[8] or not,[9] his wife may not marry again.[10] R. Meir saith, "It happened once that a man fell into a large well, and after three days came up again alive." But R. José relates [to the contrary effect], that it once happened that a blind man went down in a cave to bathe, and his guide followed him, and when they had waited so long for their return till their death appeared certain, their wives were permitted to re-marry. It also happened in Asya [Asia Minor] that a man was fastened to a chain and cast into the sea, and on withdrawing the chain, his leg only was found; the sages then decided, that when the leg [of a person] is found separated from the body above the knee, his wife may marry again,[11] but not if the leg was found separated below the knee.

§ 5. Even if [a witness] had his information from women only, who, conversing with each other, said, "A. B. is dead," his evidence

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[6] Namely, that the nose had not been cut off, or was so mutilated, as to render the person irrecognizable.

[7] Because the period and progress of putrefaction, which renders the features irrecognizable, varies greatly in respect to the habit of body of the subject, the heat or coldness of the climate, and of the season of the year.

[8] Under this description are to be understood ditches or ponds, or other sheets of water, of which all the sides or banks may be seen.

[9] Such as the sea, large rivers, &c.

[10] For he may, perhaps, have been saved, although he did not return to his wife.

[11] For it is supposed, that a person so circumstanced cannot possibly survive.

is valid. R. Jehudah says, "Even when he heard children say to each other, 'We are going [home] from the burial and lamentation for A. B.'" It is immaterial whether the witness intended by that declaration to proffer it as testimony, or whether he did it without such intention. R. Jehudah ben Baba says, "An Israelite may tender his evidence even intentionally, but the evidence of a heathen is void when it is proved that he has some private purpose, or intention to serve [by his evidence.]"

§ 6. Evidence [of the death of a married man] is admissible even when the witness saw him only by candle or moonlight. A woman may be permitted to re-marry, even if a voice in the air or echo[12] had only been heard, declaring that event. It once happened, that a man, on the top of a mountain, called out, "A. B., son of C. D., of the place E. is dead." They ascended the mountain without finding the person from whom the voice had proceeded, yet the wife [of A. B.] was permitted to marry again. Another case occurred in Tsal-mon,—a man exclaimed, "N. N., son of N. N., of the place N., has been bitten by a venomous serpent, and must die." When they came to the wounded man, [his features] could no longer be recognized, yet his wife was permitted to marry again.

§ 7. R. Akivah says, "When I went down to Neardeah to intercalate a month in the year, I met Nehemiah of Beth-delee, who told me, 'I heard that with the exception of R. Jehudah ben Baba, permission is refused in the Holy Land to a woman to re-marry upon the evidence of a single witness.' On my answering in the affirmative, he said, 'Tell them in my name you are aware that the tranquillity of this country is disturbed by armed hosts, [and therefore I cannot go to tender my personal evidence], but I have it in tradition from the elder Rabbon Gamaliel, that a woman may re-marry on the evidence of a single witness, or of that of a woman or slave.' When I returned and informed [the younger] Rabbon Gamaliel of this, he rejoiced and said, 'We have found a colleague for R. Jehudah ben Baba, [who agrees with him in this].' That circumstance reminded Rabbon Gamaliel [the younger], that once, when several men were killed at *Tel Arzah*, Rabbon Gamaliel, the elder, permitted their wives to re-marry on the evidence of a single witness, and to receive as valid evidence the testimony of a witness, whose knowledge of the fact is only derived from

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[12] In the original בת קול "a daughter," or production of the voice, i. e. an echo. In the present case it is supposed that the person from whom the voice proceeded had gone away after he made the announcement.

the deposition he heard another witness make in this case, also, [to grant this permission to re-marry] on the evidence of a slave-woman, or female slave." R. Eleazar and R. Joshua are, however, of opinion, that the mentioned permission ought not to be granted to a woman to re-marry upon the evidence of a single witness. R. Akivah saith, "Neither upon that of a woman, a slave, a bond-woman, or of near relatives." But the sages said unto him, "It happened once, that when a family of Levites went to Zoar, the city of Palms, one [of the said Levites] fell ill on the road, and they brought him to an inn. When they returned, they asked the hostess, 'Where is our companion?'— She answered, 'He died, and I have had him buried': permission was thereupon granted the wife of the deceased to re-marry." They [the sages] said [moreover] to him, "Shall not the evidence of a woman of sacerdotal race be equally admissible as that of the [heathen] hostess of an inn?" but he replied, "The reason why credence was accorded to this hostess was, because she produced to them the staff of the deceased, his travelling-bag, and the roll of the law he carried with him."

XXIV. TREATISE KETUBOTH[1]

Contains laws regulating marriage contracts, dowries, and settlements, the matrimonial rights, duties and obligations of husband and wife, and various other matters appertaining to the married state. The word כתובה, in its primary signification, denotes a writing or document generally; but its use is technically restricted to marriage contracts, which are invariably drawn up according to a set form in the Chaldee (Aramaic) language. The jointure settled on the wife by virtue of the marriage contract is called her Ketubah, and in all cases amounts to a fixed and standing sum which remains of the same amount whether the parties are rich or poor, though by special covenant it may be enlarged. The whole of a man's property is liable to the payment of the Ketubah, and whatever portion of his real property he sells continues subject to that liability should the remainder of his estate prove insufficient.

CHAPTER I.

§ 1. A virgin is espoused on the fourth day [of the week], a widow on the fifth; because in towns the Bethdin sits twice a week, [namely] on the second and on the fifth [day], so that should he [the bridegroom] have to complain of non-virginity, he [presents himself] early [the next morning] before the Bethdin.

§ 2. [If the person espoused is] a virgin, her Ketubah is two

[1] The plural of Ketubah.

hundred dinar; [if] a widow, [it is] a maneh.[2] A virgin [who is] a widow, or divorced, or has performed chalitza, after betrothment [only, the marriage ceremony not having been completed, or the marriage consummated, in all such cases] their Ketubah is two hundred dinar, and they are amenable to the accusation of non-virginity.[3] A proselyte, a captive, and a bondwoman, who have been ransomed, converted, or manumitted at less than three years and one day [old], their Ketubah is two hundred dinar, and they are amenable to the accusation of non-virginity.

§ 3. A minor,[4] with whom an adult [male] has had carnal intercourse, a nubile maiden who has had such intercourse with a minor,[5] and [a virgin] fractured by accident,[6] their Ketubah is two hundred dinar. Such is the dictum of R. Meir: but the sages hold [in the case of a virgin] fractured by accident [that] her Ketubah [is only a] maneh.

§ 4. A virgin [who is] a widow or divorced, or has performed chalitza after espousals [only, the ceremony having been completed, but the marriage not consummated, in all such cases] their Ketubah is a maneh, and they are not amenable to the accusation of non-virginity. A proselyte, a captive, and a bondwoman, who have been ransomed, converted, or manumitted at more than three years and one day [old], their Ketubah is a maneh, and they are not amenable to the accusation of non-virginity.

§ 5. He who in Judea has partaken [of the betrothment meal] at his father-in-law's without [any] witness [present], cannot prefer an accusation of non-virginity, because he was alone with her[7] [the bride]. A widow, whether she be [the daughter] of an Israelite or of a priest has [always] her Ketubah [of] a maneh. The sacerdotal

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[2] One hundred dinar; the same proportion is observed whatever be the description of coin named in the Ketubah.

[3] Vide Deut. xxii. 13—21. If sustained it deprives them of their Ketubah.

[4] A girl less than three years and one day old.

[5] A boy less than nine years and one day old.

[6] The expression of the text is מכת עץ, one struck by a tree or wood; it means a maiden bruised or fractured [from any cause other than coition], so that the signs of virginity have disappeared.

[7] In Judea the custom was for the father-in-law to make a repast at the time of betrothing, during which bride and bridegroom were left alone. This was done to accustom them to each others society; but the law presumes that he abused the opportunity, and therefore has no right to complain.

Bethdin fixed the Ketubah for a virgin [of sacerdotal race] at four hundred zooz, but the sages did not [interfere to] prevent them.

§ 6. He who espouses a wife, and discovers she has not her virginity, should she say, "After thou didst betroth me נאנסתי ונסתפחה שרך"[8] while he replies, "No, it is not so, but before I had betrothed thee [thou hadst lost thy virginity], consequently my bargain [with thee] was concluded in error:"[9] [in his case] R. Gamaliel and R. Eleazar say, "She is worthy of belief;" but R. Joshua saith, "Not by her assertion are we to be guided: she is presumed to have been deflowered previous to her betrothment, and that she deceived him, unless she adduces proof to [support her assertion]."

§ 7. Should she assert, "I have been fractured by accident," while he replies, "No, thou hast been deflowered by a man," R. Gamaliel and R. Eleazar say, "She is to be believed;" but R. Joshua saith, "Not by her assertion are we to be guided: she is presumed to have been deflowered by a man, unless she adduces proof to [support] her assertion."

§ 8. If she is seen conversing [intimately] with a man in the street, and being asked, "Who is that man?" she replies, "He is A. B., a priest [or of legitimate Israelitish descent]," R. Gamaliel and R. Eleazar say, "She is to be believed;" but R. Joshua saith, "Not by her assertion are we to be guided: she is presumed to have been deflowered[10] by a nethin or a bastard,[11] unless she adduces proof to [support] her assertion."

§ 9. If she is pregnant, and being asked, "by whom?" she replies, "By NN., who is a priest," R. Gamaliel and R. Eleazar say, "She is to be believed;"[12] but R. Joshua saith, "Not by her assertion are we to be guided: she is presumed to be pregnant by a nethin or a bastard, unless she adduces proof to [support] her assertion."

§ 10. R. José said, "It [once] happened that a girl went down

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[8] A figurative expression, denoting that her person (which is his possession) has become defiled.

[9] If she was violated subsequent to the betrothment, she does not forfeit her Ketubah; whereas if it happened previously, her concealing it is held to be a fraud practised upon him, the contract which he concluded in error becomes void, and she forfeits her whole Ketubah.

[10] A striking instance of the rigid seclusion to be observed by women in the East, and the jealous suspicions to which they are subject.

[11] Vide Treatise Yebamoth, ch. II., § 4, note 1.

[12] In which case she and her child—if a daughter—might marry priests, which otherwise they cannot do.

to draw water from the fountain, and she was violated [by a person unknown]." R. Jochanan ben Nouri decided, "That if the majority of the townsmen were [of pure descent and] qualified to intermarry with the sacerdotal race, this girl might be espoused by a priest."

CHAPTER II.

§ 1. A woman, who becoming widowed or divorced, asserts, "As a virgin I was married," while he [the husband, or his heir] asserts, "No! as a widow thou wast married," [in her case] should there be evidence to prove that she went [to be married] in a myrtle-wreath,[1] and with her hair flowing, her Ketubah is two hundred dinar. R. Jochanan ben Beroka saith, "The distribution of parched corn[2] is also evidence [in her favor]."

§ 2. R. Joshua admitted, "That should a man say to his neighbour, 'This field did belong to thy father, but I bought it of him,' he is to be believed, because the same mouth which binds also unbinds.[3] But should there be evidence that the field [in question] had belonged to the father of his neighbour, and he [the present holder, to justify and maintain his possession] asserts, 'I bought it of him,' he is not to be believed [on his bare unsupported assertion]."

§ 3. Should witnesses declare, "This [attestation] is [in] our handwriting, but we were forced [to attest]," or "we were minors," or "we were [on the score of consanguinity] legally disqualified [from becoming] witnesses," they are to be believed.[4] But if there be witnesses to prove that it is their handwriting, or if their handwriting is proved by other means, they are not to be believed.

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[1] According to others "a veil." Virgin brides wore such ornaments.

[2] On the marriage of a virgin, parched corn was distributed among the wedding-guests.

[3] R. Joshua, maintaining that the woman cannot be a trustworthy witness in her own case, and having thereby established a general principle to that effect, admits the exception to his general rule, which is in the case of a man, who having by his own unsupported statement acknowledged a liability that otherwise could not have been brought home to him, is to be believed when he states how, and by what means he became discharged of that liability. For if his own unsupported evidence is to have force against him, it must have equal force for him.

[4] Provided there be no other evidence than their own admission to prove their handwriting, so that this case comes under the principle of the preceding Mishna, that the same mouth which binds also unbinds.

§ 4. Should one of them declare, "This is my handwriting, and this is the handwriting of my companion;" and the other likewise declares, "This is my handwriting, and that is the handwriting of my companion," they are to be believed. Should each of them only declare, "This is my handwriting," they require the additional [testimony] of another person. Such is the dictum of Rabbi; but the sages hold that they do not require the additional [testimony] of another person, but every man is to be believed, when he declares, "This is my handwriting."

§ 5. A woman, who declares, "I have been married, but am divorced," is to be believed, because the same mouth which binds also unbinds.[5] But if there is evidence that she had been married, although she asserts, "I am divorced," she is not to be believed [on her bare assertion]. If she declares, "I have been captured by Gentiles, but am undefiled," she is to be believed, because the same mouth which binds also unbinds.[6] But if there is evidence that she was in captivity, although she asserts, "I am undefiled," she is not to be believed. Should the evidence appear after her [being declared qualified for] marriage [with a priest], her marriage is not invalidated.

§ 6. If two women have been captured by heathens, the one declaring, "I have been captive, but am undefiled," and the other likewise declaring, "I have been captive, and am undefiled," neither of them is to be believed. But if they bear testimony in favor of each other, they are to be believed.

§ 7. Such [is] likewise [the case] with two men. [If] one declares, "I am a priest," and the other [also] declares, "I am a priest," neither of them is to be believed.[7] But if they bear testimony in favor of each other, they are to be believed.

§ 8. R. Jehudah saith, "No man is to be raised [admitted] to the priesthood on the testimony of one witness [only]." R. Eleazar saith, "When does this rule hold good? In case there should be any opponents [who gainsay his claim]; but where there is no opposition, they do raise [admit] to the priesthood on the testimony of [only] one witness."

§ 9. A woman who is imprisoned among heathens on account of money matters, is [after her liberation] permitted to her husband: [but if imprisoned] under sentence of death, [she is after her libera-

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[5] She is consequently at liberty to marry again.

[6] She is consequently qualified to marry a priest.

[7] Or considered as entitled to enjoy heave, &c.

tion] interdicted to her husband.[8] A town having been taken by siege [storm], all the priestesses [wives of priests] that are within it become disqualified, and their marriage void. But if they have any witness [to attest that they have not been defiled], even [though it be] a bondman or a bondwoman, they are to be believed; whereas no person is to be believed in his own favor. [When Jerusalem was taken] R. Zachariah ben Hakazab [a priest] declared: "[By] this [holy] temple, [I swear] her hand [that of his wife] did not quit my hand from the hour the heathens entered into Jerusalem, and until they left [again]." But they [the sages] answered him: "No man can bear witness in his own favor."

§ 10. [In] the following [cases, men] are to be believed [should they offer] to testify, when grown up, to what they have seen while children. A man is to be believed, who affirms, "This is the handwriting of my father;" "this is my teacher's handwriting;" [or] "this is my brother's handwriting;" [or] "I remember that the woman A. B. went forth [to be married] with a myrtle-wreath and flowing hair;"[9] [or] "that A. B. went out of the school to bathe and eat heave, and that he partook with us on the thrashing-floor;"[10] [or] "that this place is a בית הפרס"[11] [or] "thus far [until this spot] did we go on the Sabbath."[12] But he is not to be believed were he to state, "A. B. had a right of thoroughfare here;" [or] "A. B. had a right here to place his deceased relatives, and to perform funeral laments."[13]

CHAPTER III.

§ 1. These are the נערות[1] who have [the right to recover] a fine. He who is carnally connected with a bastardess, or a Nethina,[2] or

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[8] From the libidinous practices of the heathens, it was presumed that they abused her person, and that she consented, in order to save her life.

[9] That consequently she was married as a virgin.

[10] That he was a priest, and entitled to heave, &c.

[11] A burial-place that has been ploughed, and made arable, and the vicinage of which, in a circumference of one hundred Amoth, remains unclean.

[12] Which indicates the Techoom. (Vide Treatise Erubin, chap. V. § 5.)

[13] Because these involve questions of property, requiring full evidence.

[1] The נערה damsel here spoken of, is from twelve years and one day old up to twelve and a half years, beyond which age, or should she have no signs of puberty, the fine cannot be exacted. (Vide Deut. xxii. 28, 29.)

[2] Vide Treatise Yebamoth, Chap. II. § 4.

with a Samaritan. He, likewise, who is so connected with a proselyte, a captive and a bondwoman who have been ransomed, converted, or manumitted at less than three years and one day [old]: [moreover] he who is carnally connected with his own sister, or with his father's sister, or with his mother's sister, or with his [own] wife's sister, or with his brother's wife, or with his father's brother's wife,[3] or with a Niddah: in all these cases he is finable; for although that these [the last named series] are under [the denunciations of] כרת [excision], they are not [sentenced to] death by the Bethdin.

§ 2. The following are not subjected to fine:—He who is carnally connected with a proselyte, a captive, and a bondwoman who have been ransomed, converted, or manumitted at more than three years and one day [old]. R. Jehudah saith, "A captive[4] who has been ransomed is presumed to retain her virgin purity, although she be nubile." He who is carnally connected with his own daughter, or his daughter's daughter, or his son's daughter, or with his wife's daughter, or her son's daughter, or her daughter's daughter, is not subject to a fine, because his life is forfeited, and he is put to death through [sentence of] the Bethdin; and whosoever forfeits life is not subjected to a fine in money, for it is said, "If no mischief follow, he shall be punished by fine."[5]

§ 3. [Of] a damsel who has been betrothed and divorced, R. José the Galilean saith, "She does not recover any fine;" but R. Akivah saith, "She does recover a fine, and her fine [belongs] to herself."

§ 4. He who seduceth a damsel pays threefold damages, and he who violateth [her, pays] four [fold]. The seducer pays [for her] disgrace, deterioration [in value], and the fine: in addition to which the ravisher pays for the [bodily] pain [he has inflicted upon her]. What is [the difference] between the [punishment of the] seducer and [that of] the ravisher? The ravisher pays for the [bodily] pain; the seducer does not pay for the [bodily] pain. The ravisher must pay at once, the seducer if he refuses to marry her. The ravisher must drink out of his polluted vessel,[6] whereas the seducer may, if he likes, divorce her.

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[3] If these two wives have been divorced before the marriage was consummated.

[4] The captive spoken of in the Mishna is an Israelite woman who has been kidnapped, or carried off by heathens.

[5] Vide Exodus xxi. 22.

[6] A figurative expression, denoting that he is bound to marry his victim, and can never divorce her.

§ 5. How [is it to be understood that] "he must drink out of his polluted vessel"? Even though she be lame, or though she be blind, or though she be afflicted with boils [leprosy, he must marry and cannot divorce her]. But if he discovers in her disgraceful conduct [after marriage],[7] or she is not qualified to enter into [the congregation of] Israel, he is not permitted to keep her; for it is said, "Unto him she shall be a wife, a wife qualified and fitting for him."[8]

§ 6. [Of] an orphan, who had been betrothed and divorced, R. Eleazar saith, "The seducer is free [from penalty], but the ravisher is guilty."[9]

§ 7. What [amount of compensation] is [due for her] disgrace? [In] all [cases] it is [computed] according to [the rank, station, and means of] him who inflicts the disgrace, and [her] who sustains the disgrace. [To determine the] deterioration [in value] she is appraised, as if she were a bondwoman about to be sold; [and thus it is ascertained] what was her value [before the fact], and what is her value [after it]. The fine is equal to all men, for whatever is fixed in the law applies alike to all men.[10]

§ 8. Whenever there is [a right of] sale [vested in the father], no fine [can be inflicted]; and whenever there is [the right to inflict] a fine, no sale [can be effected by the father]. In an infant there is [the right of] sale [vested in the father], but she has no [right to recover a] fine. A damsel[11] has a [right to a] fine, but [the father] has no [right of] sale. [In] a nubile girl [the father has] no [right of] sale, and she has no [right to recover a] fine.

§ 9. He who [voluntarily] declares, "I have seduced the daughter of A. B.," must pay for the disgrace and deterioration, in consequence of his own confession, but he pays no fine. He who [voluntarily]

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[7] Should she become guilty of adultery. [8] Vide Deut. xxii. 29.

[9] The difference between the case here laid down and that of § 3 of this Chap. arises from the fact, that there the fine and compensation goes to the girl's father, whereas here it goes to herself. It is therefore assumed, that in consenting to prostitute her person, she renounced her right to a legal compensation, but she could never renounce her father's right.

[10] The amount of the fine is fixed at fifty Shekels. (Deut. xxii. 29.)

[11] Until the age of twelve years and one day the father has a right to sell his daughter. The right to recover a fine in case of seduction or rape begins at that age, and ends at twelve and a half years. Thenceforward a girl is nubile, and is, according to Rabbinical definition, no longer entitled to the designation נערה, used in the Law, and to which the right of recovering a fine is rigidly limited.

declares, "I have stolen, slaughtered, and sold [A. B.'s cattle]," must pay the value, in consequence of his own confession, but he is not held to pay the double, the four fold, or the five fold compensation.[12] [He who says], "Mine ox has killed A. B., or A. B.'s ox," must pay in consequence of his own confession; [but should he say], "Mine ox has killed A. B.'s bondman," he does not pay in consequence of his own confession.[13] The rule is, in any case where the fine to be inflicted exceeds the actual damage done, no one can be amerced in consequence of his own confession.

CHAPTER IV.

§ 1. [Of] a damsel who has been seduced, the [compensation for] disgrace and deterioration, and the fine belong to her father, and likewise [the compensation] for [bodily] pain [of her] who has been ravished. If the cause was brought before the tribunal previous to her father's death, [the damages] belong to her father. Should the father die, they belong to her brethren; but if the cause could not be brought before the tribunal previous to the father's decease, they [the damages] belong to herself. According to another version, R. Simeon saith, "If the money could not be received [the payment enforced] previous to the father's decease, they [the damages] belong to herself." If the cause was brought before the tribunal previous to her becoming fully nubile, they [the damages] belong to her father. If the father dies, they belong to her brethren; but if the cause could not be brought before the tribunal till after she was fully nubile, they [the damages] belong to herself. R. Simeon saith, "If the money could not be received [the payment enforced] previous to the father's death, [according to another version, to her becoming fully nubile], they [the damages] belong to herself. The produce of her labor [her earnings], and what she finds, even though she has not received [the wages of her labor previous to] her father's death, belong to her brethren."

§ 2. Should a man betroth his non-nubile daughter [to one who] divorces her, and [the father again] betrothes her, and she becomes

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[12] Exodus xxii. 1—4.

[13] In all the former instances he has only to make good the positive damage, but does not pay any fine. But in the present instance the compensation is a positive fine, as, without reference to the value of the bondman killed, the Law fixes the compensation in all cases at thirty Shekels silver (Exod. xxi. 32).

a widow, her Ketubah from both husbands belongs to him [the father]. Should he marry her [to one who] divorces her, and [the father again causes her to] marry, and she becomes a widow, her Ketubah from both husbands belongs to herself. R. Jehudah saith, "The first Ketubah belongs to the father:" but they [the sages] replied, "That from [and after] the time she got married, her father has no claim on her."

§ 3. Should the daughter of a female proselyte who had been converted along with her [mother], commit fornication [after being betrothed as a נערה damsel] her [punishment] is strangulation, but she is not [to be brought out to] the door of her father's house,[1] nor has she [a right to] the 100 selah [in case she has been unjustly slandered].[2] If she was conceived while [her mother yet was] in unholiness [previous to conversion], but was born in holiness [after conversion] her [punishment] is lapidation, but she is not [to be brought out to] the door of her father's house, nor has she [a right to] the 100 selah. But if [both] her being conceived and her birth were in holiness [took place after her mother's conversion], she is like a daughter of Israel in every respect. Whether she has a father but no father's house, or a father's house but no father,[3] her [punishment] is lapidation: [for] the door of her father's house is not spoken of otherwise than as a [conditional] command.[4]

§ 4. The father is entitled to the Kidushin[5] of his daughter [she being non-nubile], whether they be by money, marriage contract, or connection. He is [moreover] entitled to what she finds, to her earnings, and to annul her vows. He [also] receives her Get[6] for her, but does not enjoy the usufruct [of her maternal property] during her life. The husband has the advantage over him, inasmuch as he does enjoy the usufruct [of her property] during her lifetime. But then he is bound to her maintenance, to her ransom [in case of her being led into captivity], and to her interment. R. Jehudah saith, "Even the poorest man in Israel should not have less than two mourning pipes [instruments], and one mourning woman [at the funeral of his wife]."

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[1] Deut. xxii. 21. [2] Deut. xxii. 19.

[3] Should the father, though still alive, possess no house, or should he be dead, in either case the sentence of death is to be executed.

[4] The observances which according to law (Deut. xxii. 21) ought to take place at her execution, are not indispensable, and if they cannot be enforced, the punishment is nevertheless inflicted.

[5] Vide Treatise Kidushin, chap. I. § 1. [6] Vide Treatise Gittin, chap. I. § 1.

§ 5. She [a female] is always [invariably] under the authority of her father until she is placed under the authority of her husband [by marriage]; [according to another version: until she is placed under the חפה nuptial canopy].[7] Has the father surrendered her to the emissaries of the husband, she is under the authority of the husband. Has the father gone with the husband's emissaries, or have the father's emissaries gone with the husband's emissaries, she is [yet] under the father's authority. Have the father's emissaries surrendered her to the husband's emissaries, she is under the authority of her husband.

§ 6. The father is not obligated to maintain his daughter; for this exposition [of the following clause in the Ketubah] was propounded by R. Eleazar ben Azariah before the sages in the כרם,[8] in Jabneh: "The sons to inherit, and the daughters to be maintained," even as the sons do not inherit till after the father's decease, so the daughters likewise have no [claim] to be maintained until after the father's decease."[9]

§ 7. Though he [the husband] has not signed a Ketubah for her, [the bride, nevertheless] a virgin receives 200 dinar, and a widow a maneh, as that is a fixed stipulation [enacted] by the Bethdin.[10] If he has signed over to her a field worth 100 zooz only, instead of the 200 zooz [legally her due], and has not [in the Ketubah] added the words, "All my other possessions are subject to and liable for thy Ketubah," the obligation is [nevertheless] in force as that is a fixed stipulation [enacted] by the Bethdin.[11]

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[7] Commentators are divided in opinion as to what is here understood by the word Chupah. According to the Rambam, it denotes a bower of roses and myrtles, into which the bridegroom conducts his bride [after she has been surrendered to him by her father], and where they are left alone. According to Rabbenu Nissim, however, it is not necessary that they should be left alone, but the wife becomes subject to the husband's authority as soon as she enters his abode, to be there married to him.

[8] The lecture room at Jamnia יבנה, was in the form of an amphitheatre, with rows of seats raised above each other, so that the disciples sat in clusters like vines in a vineyard; hence the name, כרם vineyard.

[9] The father is not bound to maintain either sons or daughters after they have completed the sixth year, unless he is possessed of food sufficient for the consumption of one day, but while he is, he must share it with his offspring.

[10] And as such tacitly understood and in force.

[11] That the whole of his real property—even such parts thereof as he may subsequently alienate—remain liable for the Ketubah, and are mortgaged for the payment thereof.

§ 8. Though he may not have inserted in her Ketubah, "If thou art made a captive I will ransom thee, and receive thee [back] as my wife;" or, if she be the wife of a priest, "and will bring thee back into thine own land [home],"[12] the obligation is nevertheless in force, as that is a fixed stipulation [standing condition enacted] by the Bethdin.

§ 9. If she is made captive, he is bound to ransom her. Should he propose, "Here is her Get, and [the amount of her] Ketubah, let her ransom herself [at her own expense]," it is not allowed him [so to do]. If she is hurt, he is bound to have her cured: but should he propose, "Here is her Get, and [the amount of her] Ketubah, let her get herself healed [at her own expense]," he is allowed [so to do].

§ 10. Though he may not have inserted [on her Ketubah], "The male children thou mayest have by me shall inherit the amount of thy Ketubah over and above their equal shares with their brethren," the obligation is [nevertheless] in force, as that is a fixed stipulation [standing rule enacted] by the Bethdin.

§ 11. [Though he may not have inserted on her Ketubah], "The female children thou mayest have by me shall abide in my house, and be maintained out of my property, until they are espoused by men," the obligation is nevertheless] in force, as that is a fixed stipulation [enacted] by the Bethdin.

§ 12. [Though he may not have inserted on her Ketubah], "Thou shalt abide in my house, and be maintained out of my property, as long as thou continuest a widow," the obligation is [nevertheless] in force, as it is a fixed stipulation enacted by the Bethdin. As above [in the manner and form above set forth], the men of Jerusalem wrote [in their Ketuboth]: the men of Galilee wrote like them: but the men of Judea wrote "[Thou shalt abide in my house, and be maintained out of my property] until the heirs prefer to give thee [the amount of] thy Ketubah." Therefore, should the heirs prefer it, they give her [the amount of] her Ketubah, and dismiss her.[13]

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[12] A priest must not continue to cohabit with his wife after she has been a captive among heathen, for she is considered to be חללה, profaned. (Vide Levit. xxi. 7.)

[13] The formula of the men of Judea has not been adopted: the widow has, consequently, the right to abide in his house, and to be maintained out of his property until she marries again, or chooses, judicially, to obtain her Ketubah.

CHAPTER V.

§ 1. Although they [the sages] decided that a virgin receives 200 dinar, and a widow a maneh, yet if he [the husband] likes to add even 100 maneh, he can add it. Should she [the bride] become widowed or divorced, whether it occur subsequent to the betrothment or to the espousals, she receives the whole [amount settled upon her]. R. Eleazar ben Azariah saith, "If subsequent to the espousals she receives the whole [amount], [but if] subsequent to the betrothment, a virgin [only] receives 200 dinar, and a widow a maneh, as the settlement was made solely on condition of the marriage taking place." R. Jehudah saith, "If he [the husband] likes, he gives to a virgin a bond for 200 dinar, and she writes, 'I have received from thee 100 [dinar];' or to a widow [a bond for] 100 dinar, and she writes 'I have received from thee 50 zooz.'" But R. Meir said, "Whoever giveth to a virgin less than 200 dinar, or to a widow less than a maneh [for their respective Ketubah], his intercourse [with them] is [like] fornication."

§ 2. They allow a virgin twelve months from [the time] the husband proposed [marriage] to her, to provide herself [with an outfit]. And even as they allow the woman [twelve months time], they also allow [it] to the man to provide himself [with an outfit]. A widow is allowed thirty days. Should the appointed time come, and they are not married, she is [to be] maintained out of his [property], and [if he is a priest] she may eat heave. R. Tarphon saith, "They may give her all [her maintenance in] heave," but R. Akivah saith, "They are to give her half [her maintenance in] Choolin, and half in heave."

§ 3. A Yabam[1] does not qualify [his sister-in-law, who expects to be married by him] to eat of heave. If [out of the twelve preparatory months allowed her] she has passed six months [during the lifetime] of her [intended] husband, and six months before the Yeboom, or even the whole twelve months before [the death of] her [intended] husband, less one day before the Yeboom, or the whole twelve months before the Yeboom,[2] less one day before her [intended] husband's [death], she is not [entitled] to eat of heave. Such was the first [eldest] Mishna, but a subsequent Bethdin decided, in no case is the woman [entitled] to eat of heave until she is placed under the nuptial canopy.

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[1] A brother who is bound to marry the childless widow of his deceased broher. (Vide Treatise Yebamoth, chap. I. § 1.) [2] The espousals of a Yabam.

§ 4. Should a man by vow consecrate [the produce of] his wife's industry, she [nevertheless has a right to] subsist on her earnings. [If he consecrate] the surplus,[3] R. Meir saith, "It is consecrated:" R. Jochanan, the Sandaller, saith, "It is Choolin [non-consecrated]."[4]

§ 5. These are the [kinds of] work which the woman is bound to do for her husband. She must grind corn, and bake, and wash, and cook, and suckle her child, make his bed, and work in wool. If she brought him one bondwoman [or the value of one, for her dowry], she needs not to grind, bake, or wash: [if she brought him] two [bondwomen, or the value of two], she need not cook nor suckle her child: [if] three, she need not make his bed nor work in wool: [if] four, she may sit in her easy chair.[5] R. Eleazar saith, "Even though she has brought him [her husband] a hundred bondwomen, he can compel her to work in wool, as idleness leads to unchastity." R. Simeon ben Gamaliel saith, "In like manner, should a man by vow[6] interdict his wife from doing any kind of work, he is bound to divorce her, and to pay [the amount of] her Ketubah, because idleness may lead her to mental aberration."

§ 6. He who by vow interdicts his wife from connubial intercourse, Beth Shammai hold [after] two weeks, Beth Hillel hold after [one] week [he must either be absolved from his vow by a person properly qualified, or he must divorce her]. Students may, for the purpose of studying the law, be absent without the consent of their wives during thirty days: workmen during one week. The marriage duty mentioned in the Law,[7] is incumbent on men of independence[8] daily, on workmen twice a week, [on] ass drivers[9] once a week, [on] camel drivers[10] once in thirty days, [on] navigators[11] once in six months. Such is the dictum of R. Eleazar.

§ 7. A woman who is refractory against her husband[12] has her Ketubah diminished by [a deduction of] seven dinar every week.

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[3] Which, after providing for her own sustenance, she may accumulate, and he inherits at her decease.

[4] Because that which has not yet actual existence cannot legally be consecrated.

[5] קתדרא Catheder, a raised seat or dais.

[6] Should he vow, "If thou doest any kind of work I will not hold any connubial intercourse with thee."

[7] Vide Exodus xxi. 10.

[8] טילין, persons whose circumstances place them above the necessity of following any trade or profession.

[9] Who carry corn or vegetables to places in the vicinity of their abodes.

[10] Whose trade carries them to greater distances.

[11] Who sail on long voyages.

[12] If she denies him his conjugal rights.

R. Jehudah saith " [By] seven terpaïkin."[13] How long is the deduction to be continued? Until it reaches [the full amount of] her Ketubah. R. José saith, " He [the husband] continues the deductions [so long as she remains refractory], for should any inheritance fall to her from any other quarter, he can therefrom recover them." Thus likewise, should the husband prove refractory against his wife,[14] they increase her Ketubah by [the addition of] three dinar every week. R. Jehudah saith " [By] three terpaïkin."

§ 8. He who provides his wife [with her maintenance] through a third person,[15] must not allow her less than two kab wheat or four kab barley [a week]. R. José stated that this [double] allowance of barley was granted only through [the decision of] R. Ishmael [to those] who resided near Idumea.[16] He [the husband] must [also] allow her half a kab of legumes, half a lug of oil, a kab of dried figs, or a maneh weight of fig-cake: and if he has none, he must allow her fruits of another kind in its stead. [Further] he must provide her with a bedstead, a pillow, and a mattress [another version has: " if he has no pillow he must provide her with a mattress"]. [Moreover] he must give her a bonnet [cap] for her head, a girdle for her loins, shoes every festival, and wearing apparel to the value of fifty zooz every year. He must not give her new garments in the summer season nor worn-out ones in the rainy season; but he must give her garments to the value of fifty zooz in the rainy season, so that she wears the old ones in the hot weather, and the worn-out ones belong to her.

§ 9. He must further allow her a meah in money for her petty expences, and she takes her meals with him every Sabbath evening. Should he not allow her a meah in money for her petty expences, her earnings belong to her.[17] What quantity of work is she bound to do for him? Five selah weight [of spun wool] for warp[18] in Judea, which [are equal to] ten selah in Galilee, or ten selah weight for shute[19] in Judea, which are [equal to] twenty selah in Galilee. If

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[13] A terpaïk is half a dinar.

[14] Withhold connubial intercourse.

[15] If he himself does not reside or board with her.

[16] The barley in that neighbourhood is very inferior in quality. R. Ishmael ordered the quantity to be doubled to make up for that inferiority.

[17] That is, after deducting the cost of her maintenance, the surplus of her earnings belongs to her.

[18] and [19] The thread for the warp is much more difficult to spin than that for the shute, and is therefore computed as equal to double the quantity of shute. The selah of Judea is as heavy again as that of Galilee.

she is suckling, the quantity of her labor is [to be] diminished, and that of her sustenance increased. To whom do [all] the [above] stipulations apply? To the poor in Israel, but with respect to persons of distinction, every thing is regulated according to rank [and station in society].[20]

CHAPTER VI.

§ 1. Whatever a woman finds, and [likewise] the produce of her labor belongs to her husband: of what she inherits he enjoys the usufruct during her life. [Damages awarded to her in compensation for] insult or injury[1] belong to her. R. Jehudah ben Bethera saith "[If the injury inflicted on her is] hidden [not visible] two-thirds [of the damages recovered] belong to her, and one-third to him [the husband]. But if it is apparent [visible] two-thirds belong to him and one-third to her. His [share] is paid [over] to him at once: for her share land is bought, of which he has the usufruct."

§ 2. Should a man stipulate [to give a certain sum of] money [as dowry] to his son-in-law, and his son-in-law dies, he may say [to the brother of the deceased who is to marry his childless widow], "To thy brother I would have given [the money], but to thee I do not intend giving it."

§ 3. If she [the bride] stipulates to bring him one thousand dinar [in ready money as a dowry], he must against that sum assign to her [in the Ketubah] fifteen maneh.[2] But against [articles subject to] appraisement, he assigns to her one-fifth less than her valuation.[3] [Should the articles be] appraised at a maneh, and are [actually] worth a maneh, he assigns to her only one maneh. [But if he is required to assign her that sum for articles] to be valued at a maneh, she must bring him [property to the value of thirty-one selah],[4] and if [he is to assign] four hundred dinar, she must bring him [to the value of] five hundred.

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[20] And according to the customs of the country in which the parties reside.

[1] Such as the loss of a limb, or any other permanent blemish.

[2] He adds one-third for the use of the ready money which may at once be productive of profit to him.

[3] Because it is assumed that to gain favor with her bridegroom, the amount of her dowry has been swelled, and the articles composing the same rated beyond their real value.

[4] A selah is four dinar, so that the actual value must exceed the amount assigned to her by one fifth.

But if he assigns [the amount of her dowry in the Ketubah after the property has been appraised], he deducts one fifth [from the amount of the valuation].

§ 4. If she stipulates to bring [her dowry in] ready money, he must [in the Ketubah] assign her six dinar for every selah [of four dinar]. The bridegroom must also take upon himself [to allow her] ten dinar pocket money[5] for every maneh she brings him. R. Simeon ben Gamaliel saith, "Every thing is regulated according to the custom of the country."

§ 5. He who gives his daughter [in marriage] without any [previous] stipulation [as to dowry], must not give her less than fifty zooz. If it is stipulated that he [the husband] is to take her naked [without any outfit], he must not say, "When I have brought her to my own house I will cover her with my raiment," but he is bound to clothe her while she is yet in her father's house. So likewise must he, who [by virtue of his office as overseer of the poor] gives an orphan in marriage, not give her less than fifty zoos [for her dowry], and if there is sufficient [means] in the box[6] she is to be provided [with an outfit] becoming her condition.

§ 6. An orphan who was given in marriage by her mother and brothers with her consent, and they had assigned to her a dowry of a hundred or of fifty zooz, she is entitled when she comes of age to recover from them whatever is her due. R. Jehudah saith, "If the father has given one daughter in marriage, the same amount [of dowry] must be given to the second [daughter] as he had given to the first;" the sages, however, object that sometimes a man was poor and becomes rich, or was rich and becomes poor;[7] but the property [the father left] is to be appraised, and [her fair share] given to her.

§ 7. If a person deposits money for [the dowry of] his daughter in the hands of a trustee,[8] should she say, "I have full confidence in my bridegroom,"[9] the trustee must [nevertheless] act according to the strict letter of the trust reposed in him.[10] Such is the dictum of

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[5] קופה box: some commentators render it "perfume-box," others "cash-box."

[6] Should the charity funds be exhausted, the overseers are bound to borrow the money necessary for this purpose, on the security of the rates.

[7] And as his mind would be influenced by the change in his circumstances, what he gave to one daughter is not a fair criterion of what he would give to the other.

[8] To purchase land withal.

[9] Therefore let him have the money.

[10] And not comply with her wish.

R. Meir, but R. José saith, "Suppose it [the trust money] had been converted into a field, which she is desirous to sell, she has a right to sell it at once."[11] To whom do these remarks apply? To a grown-up female; but as to a minor, whatever a minor does is as nothing [void].

CHAPTER VII.

§ 1. He who by vow interdicts his wife from enjoying any benefit from him for thirty days, must provide her [maintenance through] a guardian:[1] beyond then [if for a longer period] he must divorce her, and pay [the amount of] her Ketubah. R. Jehudah saith, "In the case of an [ordinary] Israelite, [if his vow extends to] one month, he must keep her, [but if to] two months, he must divorce her, and pay [the amount of] her Ketubah. [In the case of] a priestess [should his vow extend to] two months, he must keep her, [but if to] three months, he must divorce her and pay her Ketubah.

§ 2. He who tacitly confirms the vow[2] of his wife, that she will not taste any [particular] kind of fruit, must [at once] divorce her, and pay her Ketubah. R. Jehudah saith, "[In the case of] an [ordinary] Israelite, [should the vow extend to] one day, he must keep her, [but if to] two days, he must divorce her, and pay her Ketubah: [in the case of] a priestess, [should the vow extend to] two days, he must keep her, [but if to] three days, he must divorce her, and pay her Ketubah."

§ 3. He who tacitly confirms the vow of his wife, that she will not adorn herself with any particular kind of ornament, must divorce her, and pay her Ketubah. R. José saith, "[In the case] of a poor woman, if she has set no [fixed] limit [to the duration of her vow]:[3] and [of] a rich woman after thirty days.

§ 4. He who tacitly confirms the vow of his wife, that she will not

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[11] Consequently her wishes are to be complied with.

[1] Who is to furnish her with necessaries beyond the produce of her own labour. This guardian the husband must not specially appoint, since a man's representative is like himself; a special appointment would, therefore, be an infringement on his vow, but he declares, "Whosoever provides for her shall not be a loser."

[2] By not exercising his prerogative to annul her vow the day he hears thereof. (Vide Numbers xxx. 8—11.)

[3] And if she has fixed a limit to her vow, it must not exceed twelve months.

enter her father's house,[4] should the father reside in the same town, [if the vow extends to] one month, he [the husband] must keep her; [but if to] two months, he must divorce her, and pay her Ketubah. Should the father reside in another town, [if the vow extends to] one festival, he [the husband] must keep her;[5] [but if to] three festivals, he must divorce her, and pay her Ketubah.

§ 5. He who tacitly consents to the vow of his wife, that she will not enter a house of mourning or a house of feasting,[6] must divorce her, and pay her Ketubah, because he closes [all doors] against her.[7] But if he assigns other [good] reasons [for confirming her vow[8]], he is permitted to keep her. If he says: "[I will annul thy vow] on condition thou tellest A. B. what [lewd words] thou didst speak to me," or "which I did speak to thee," or that she is to fill [a given number of buckets of water] and pour [them] on a dunghill,[9] he must divorce her, and pay her Ketubah.

§ 6. The following women are divorced, and do not receive [the amount of] their Ketubah:—She who violates the Law of Moses, or Jewish [rules].[10] What constitutes [a violation of] the Law of Moses? If she causes him to eat [food] which has not paid tithe: if she submits to his embraces while she is in a state of Niddah:[11] if she does not set apart Chalah: and if she vows, but does not keep [her vow]. What constitutes [a violation of] Jewish rules [customs]? If she goes out with her hair loose [bareheaded]: if she spins in the street, and converses [flirts] with any man. Abbah Saul saith, "[Likewise] if she curses his children in his presence." R. Tarphon saith, "[Also] if she is a קולנית, a noisy woman." What is [meant

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[4] Under a penalty, that if she does she would forego all connubial intercourse with her husband.

[5] The text here requires the following emendation: "But if to two festivals, he must divorce her, and pay her Ketubah; but in the case of a priestess, should the vow extend to two festivals, he may keep her, but if to three," &c.

[6] Under the same penalty as in note [4].

[7] He excludes her from sympathy in the hour of grief, and from consolation that might alleviate her sufferings.

[8] That the inhabitants of the town are wicked, and not fit to associate with.

[9] According to some commentators, this means that she is to prevent conception after coition. The conditions here mentioned are such, that in the one case she is required to violate the rules of decency and of self-respect, and in the other to appear in the eyes of the world as a lunatic, or be guilty of an impious act.

[10] Customs observed by Jewish women, though not enacted in the law.

[11] Telling him that she is clean.

by] a noisy woman? One who speaks in her own house [so loud] that the neighbours can hear her.

§ 7. If a man is Mekadesh[12] a woman, on condition that she is not subject to any vows, and it is discovered that she is subject to vows, the Kidushin[13] are void. Should he have espoused her without investigation [as to the condition he stipulated], and then discovers that she is subject to vows, he may divorce her without paying her Ketubah. If he has mekadeshed her on condition that she is free from corporeal blemishes, and she is found to be subject to such blemishes, the Kidushin are void. Should he have espoused her without investigation, and then discovers blemishes, he may divorce her without paying her Ketubah. All those blemishes which disqualify priests[14] [from ministering at the altar], also disqualify women [from insisting on the validity of their Kidushin].

§ 8. If the blemishes are discovered while she is yet in her father's house, it is incumbent on the father to prove, that after she was betrothed these blemishes had arisen, and his [the bridegroom's] field become harrowed.[15] But if she is entered under the husband's authority, it is incumbent on the husband to prove, that before she was betrothed these blemishes existed in her, and that his bargain was entered upon in error. Such is the dictum of R. Meir, but the sages say: "To what do these remarks apply? To blemishes that are hidden [out of sight]; but with respect to those that are evident he cannot start any objections. And should there be a bath in the city in which the espousals are to take place, he cannot raise any objections, even with respect to such blemishes as are hidden, as he could cause her to be examined by his female relatives."

§ 9. Should the husband contract any corporeal blemish, they [the Bethdin] do not compel him to divorce his wife. R. Simeon ben Gamaliel saith, "To what [case] does this assertion apply? To minor blemishes. But [in cases of] serious blemishes, they compel him to divorce [his wife]."

§ 10. The following [are the circumstances on account of which] they compel him to divorce [his wife]: if he is smitten with leprosy, or afflicted with a polypus;[16] or if he gathers dogs'-dung [for the purpose of preparing leather], or is a copper-smelter, or a tanner.[17]

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[12] Mekadesh, the act of betrothing. [13] Kidushin, betrothment.

[14] Vide Leviticus xxi. 17, and Treatise Bekooroth, chap. VII.

[15] Vide chap. I. § 6, and note [8] of this Treatise.

[16] פוליפוס, from the Greek πολυπους, a disease of the nose.

[17] In the last-mentioned four instances, either by reason of his disease or of

Whether these circumstances existed before marriage or arose after marriage, with respect to them all, R. Meir observes, "Even though he [the husband] specially covenanted with her,[18] she may plead, 'I thought I could bear it, but now I find I cannot.'" The sages, however, hold, that she is compelled to bear it,[19] except [in the case of the husband becoming] smitten with leprosy, as he [then] is in danger of a decline.[20] It happened at Sidon, that a tanner died, and left a brother [who also was] a tanner. The sages held "That she [his childless widow] had a right to plead, 'Thy brother I could bear, but thee I cannot bear.'"[21]

CHAPTER VIII.

§ 1. [Of] a woman to whom property fell [by inheritance or gift] before she was betrothed, Beth Shamai and Beth Hillel agree, "That after she is betrothed, whether she sell [the property], or give [it] away, it is valid." If it falls to her after she is betrothed, Beth Shammai hold "That she [has a right to] sell;" but Beth Hillel hold "She must not sell." Both however agree, "That if she has sold, or given [it] away, [her deed] is valid." R. Jehudah related, "They [litigants] pleaded before R. Gamaliel, 'As the man acquires the wife ['s person], can it be [right or reasonable] that he should not also acquire her property?'[1] but R. Gamaliel replied, 'We feel ashamed at the [rights conceded to the husband on her] new [property which falls to her after marriage], and ye wish to impose on us [the task of conceding similar rights on] her old [property, which fell to her after betrothment].'" Should the property fall to her after marriage, both [Beth Shammai and Beth Hillel] agree, "That whether she sell or give [it] away, the husband recovers it from the holders." [Should

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his trade, he emits a fetid disagreeable odour, which renders contact with his person extremely loathsome.

[18] Before marriage, that she was not to avail herself of her legal right to seek a divorce.

[19] In case he has made it a matter of special agreement before marriage, that she is not to enforce her right of divorce.

[20] As a consequence of his performing the marriage duty.

[21] She was consequently entitled to perform the ceremony of Chalitzah, and did not forfeit her Ketubah.

[1] As by the act of betrothing, and also by the marriage-rite, the husband acquires an absolute and exclusive right to possess and enjoy the wife's person, it follows that by the same act he acquires an equal right to her property, which in fact is but an appendage to her person.

the property have fallen to her] before she was married, R. Gamaliel saith, "Whether after her marriage she sell [the property], or give [it] away, [her deed] is valid." R. Hananiah ben Akivah related, "They pleaded before Rabbon Gamaliel, 'As the man acquires the wife ['s person], can it be [right or reasonable] that he should not also acquire her property?'[2] But Rabbon Gamaliel replied, 'We feel ashamed at the [rights conceded to the husband on her] new [property which falls to her after marriage], and ye wish to impose on us [the task of granting similar rights on] her old [property which fell to her before marriage].'"

§ 2. R. Simeon distinguishes[3] between property and property. Such property as is known to the husband[4] she must not sell, and whether she sold or gave [it away], it is void. Such property as is not known to the husband,[5] she must not sell; but if she has sold or given [it away], it is valid.

§ 3. Should ready money fall to her [as inheritance], land is to be purchased therewith, of which he [the husband] enjoys the usufruct; should fruit that has been reaped [gathered from the ground] fall to her, land is to be bought [with the proceeds] thereof, of which he [the husband] enjoys the usufruct. [As to] fruit growing on the ground, R. Meir saith, "They appraise the field, how much it is worth with the growing fruit, and how much without [it], and for the difference land is to be bought, of which he [the husband] enjoys the usufruct." But the sages decide, "That the fruit growing on the ground belong to him [the husband], but that fruit reaped [gathered from the ground] belong to her [the wife], that land must be bought therewith, of which he enjoys the usufruct."

§ 4. R. Simeon saith, "In cases where he [the husband] has the advantage when he marries her, he is at a disadvantage if he divorces her; and in cases where he is at a disadvantage when he marries her, he has the advantage if he divorces her. Fruit growing on the ground belong to him at the marriage, but at the [time of] divorce belong to her. Whereas fruit reaped [gathered from the ground]

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[2] Vide Note [1], p. 260.

[3] Establishes a different rule of proceeding in differing cases.

[4] Real property to which, he knows before marriage, that she must succeed, and which knowledge may have influenced him in forming the alliance.

[5] Property which, before marriage, he did not know she would inherit, and the expectation of which cannot have influenced him in forming the matrimonial alliance.

belong to her at the marriage, but at the [time of] divorce they belong to him."

§ 5. Should aged bondmen or bondwomen fall to her [by inheritance], they are to be sold to purchase land [with the produce of the sale], of which he [the husband] enjoys the usufruct. But R. Simeon ben Gamaliel saith, "She can forbid the sale, because they [aged servitors] are an ornament to her father's house. Should old olive-trees and vines fall to her, they are to be sold to purchase land, of which he [the husband] enjoys the usufruct." R. Jehudah saith, "She can forbid the sale, because they [old trees] are an ornament to her father's house. Should a man incur an expense on his wife's property, whether he has expended much, and reaped but little [benefit], or has expended little and reaped much [benefit], what he has expended he has expended, and what he has reaped he has reaped.[6] Should he have incurred expense, and reaped no benefit whatever, he must make oath to the amount of his expenditure, and [then] recovers it out of the property."

§ 6. [In the case of] a woman who expects [to be married by] Yeboom, and to whom property falls, Beth Shammai and Beth Hillel both agree, "That whether she sell, or give [it away, her deed] is valid" Should she die, how are they to dispose of her Ketubah, and of the property which comes and goes with her?[7] Beth Shammai hold, "The heirs of the husband share [divide equally] with the heirs of the father;" but Beth Hillel hold, "That the property reverts according to the original title.[8] Her Ketubah of right reverts to the heirs of the husband, and the property which comes and goes with her, of right reverts to the heirs of the father."[9]

§ 7. If his [the Yabam's deceased] brother left ready money, land must be bought therewith, of which he enjoys the usufruct. [If the deceased left] fruit, reaped [gathered off the ground], land must be bought therewith, of which he [the Yabam] enjoys the usufruct. [Respecting] fruit growing on the ground, R. Meir saith, "They

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[6] Both the expenditure and the benefit are for his own account and risk, and he has no claim upon the property for the surplus of expenditure over the benefit enjoyed, any more than he is liable to any reclamation for the surplus of the benefits enjoyed over his expenditure.

[7] Her personal estate [whether landed or otherwise] which she brought her husband, and which reverts to her in case of divorce, or at his death.

[8] and [9] בחוקתן, its inherent force, the source whence it originally was derived. The Ketubah reverts to the husband who settled it on her; the personal estate to the father, from whom, or whose relatives, it devolved to her.

appraise the field, how much it is worth with the growing fruit, and how much without [it], and for the difference land must be bought, of which he [the Yabam] enjoys the usufruct." But the sages decide, "That fruit growing on the ground belong to him, while that which has been reaped [gathered off the ground] belong to whoever [he or she] first obtains possession thereof. If he [the Yabam] first takes possession thereof, they belong to him; if she [the widow] first takes possession thereof, they belong to her; but [in that case] land must be bought therewith, of which he enjoys the usufruct. After he has espoused her, she is his wife to all intents,[10] saving always that she has a lien [for the amount of] her Ketubah on the property of her first husband."

§ 8. He cannot say to her, "There is [the amount of] thy Ketubah lying on the table;"[11] but the whole of his property remains liable for her Ketubah. [Another version has, "Moreover a man cannot say to his wife, 'There is [the amount of] thy Ketubah lying on the table,' but the whole of his property remains liable for her Ketubah"]. Should he divorce her, she has no [claim] beyond her Ketubah. If he takes her back, she is like all [married] women, and has no [claim] beyond her Ketubah only.

CHAPTER IX.

§ 1. He who in the Ketubah undertakes to his bride,[1] "Right and title have I none to thy property," does [nevertheless] enjoy the usufruct thereof during her lifetime, and if she dies, he inherits from her.[2] Such being the case, what [then] is the effect of his undertaking to her, "Right and title have I none to thy property?" That what she sells, or gives away, is valid. Had he undertaken in writing, "Right and title have I none to thy property, nor to the usufruct thereof;" he is not entitled to the usufruct during her lifetime. R. Jehudah saith, "At all events he has the usufruct of the proceeds

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[10] And all her rights merge in him.

[11] By means of such tender to get rid of the liability.

[1] The undertaking must be entered into previous to marriage, and is valid, even though but verbal.

[2] As the undertaking is held to extend to the fee of the property only, but not to the usufruct thereof. And after her death he inherits, because the words, "thy property," lose their legal force at her decease, as the property is then no longer hers.

of her property,[3] unless he undertakes to her, 'Right and title have I none to thy property, nor to the fruits thereof, nor to the proceeds of these fruits [henceforth and] for ever.' Had he undertaken to her, 'Right and title have I none to thy property, nor to the fruits thereof [or to the proceeds of these fruits][4] during thy lifetime, nor at thy death,' he does not enjoy the usufruct during her life, and at her decease he does not inherit of her." R. Simeon ben Gamaliel saith, "At her decease he does inherit of her, because he has contracted [to do that which is] opposed to what is written in the law; and whosoever contracts [to do that which is] opposed to what is written in the law, his contract is null and void."

§ 2. Should a man dying leave a wife, creditors and heirs, and his property, either as a trust or as a loan is in the hands of other persons, R. Tarphon holds, "It must be given up to the weakest among them."[5] But R. Akivah remarked, "No commiseration [must interfere with] the administration of justice; therefore it [the property] must be given up to the heirs, for all others [creditors] must be sworn,[6] whereas the heirs need not be sworn."[7]

§ 3. If he[8] has left fruit reaped [gathered off the ground], whichever [of the parties concerned] first obtains possession thereof, is entitled thereto. Should the wife have taken possession of more than [the amount of] her Ketubah, or the creditor of more than [the amount of] his debt, the surplus must, according to R. Tarphon, be given to the weakest among them; but R. Akivah remarked, "No commiseration [must interfere with] the administration of justice; therefore it [the surplus] must be given up to the heirs, for all others need be sworn, but the heirs need not be sworn."

§ 4. He who appoints his wife saleswoman [in his shop], or administratrix [manager of any part of his property], may have her

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[3] The amount of these proceeds being vested in land, or otherwise disposed of, so as to become a fresh source of income.

[4] These words are in parenthesis in the text.

[5] Some commentators hold that this expression applies to the creditor whose bond bears the latest date, and whose title is in law held to be the weakest, as he has no claim on the property which his debtor has alienated prior to that date. Others apply the expression to the wife.

[6] Before they can establish their claim against orphans.

[7] But succeed to the property as a matter of course. All these enactments arose from the axiom, that moveable property is not liable for debt, which axiom, however, had to be altered when Israelites ceased to be landholders.

[8] The deceased.

sworn[9] whenever he pleases. R. Eleazar saith, "[He may do so under any circumstances], even as to her spindle or her dough."

§ 5. If he has undertaken to her, "Vow or oath will I not impose on thee," he cannot have her sworn, but he may have her heirs sworn, and those who act under her authority. [If he has undertaken to her] "Vow or oath will I not impose on thee, nor on thy heirs, nor on those who act under thy authority," he cannot have her sworn, not her, nor her heirs, nor those who act under her authority.[10] But his heirs can have her sworn, her, her heirs, and those who act by her authority. [If he has undertaken] "Vow or oath shall neither I, nor my heirs, nor those who act by my authority, impose on thee, or on thy heirs, or on those who act by thy authority," neither he, nor his heirs, nor any that act by his authority,[11] can have her sworn, neither her, nor her heirs, nor those who act under her authority.

§ 6. If she [a widow circumstanced as in the preceding § stated], goes [directly] from her husband's grave to her father's house, or should she return to the house of her father-in-law, but is not appointed administratrix[manager of her deceased husband's property], his heirs cannot have her sworn. But if she has been appointed administratrix, the heirs may have her sworn as to the future, but they cannot have her sworn as to the past.[12]

§ 7. She who prejudices her own Ketubah,[13] cannot recover unless she be sworn. Should one witness bear testimony that she has [already] been paid, she cannot recover unless she be sworn. [If she is to be paid] out of orphans' property, or alienated property, or should he [the husband] be absent, she cannot recover unless she be sworn.

§ 8. "Prejudice her Ketubah;" how [can she do so]? [Suppose] her Ketubah was a thousand zooz; the husband asserts, "Thou hast received [the whole amount of] thy Ketubah;" to which she replies, "No, I have only received a hundred zooz;"[14] [in that case] she cannot recover [the amount she claims] unless she be sworn.[15] "Should

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[9] That she has not abused his confidence, and the trust reposed in her, and that she has not applied his property to his detriment, or to her own advantage, or that of others.

[10] In case she be divorced.

[11] Should she be divorced during his absence.

[12] She can only be called to account for the period after her husband's decease.

[13] For an explication of this phrase, vide next §.

[14] She does admit payment of part, and in so doing she destroys the integrity of her Ketubah.

[15] To the truth of her statement.

one witness bear testimony that she has [already] been paid;" how [is this meant]? [Suppose] her Ketubah was a thousand zooz; the husband asserts, "Thou hast received [the whole amount of] thy Ketubah;" to which she replies, "No, thou hast only paid me a hundred zooz." Should one witness bear testimony against her, [and affirm that] she has already been paid, she cannot recover [the amount she claims] unless she be sworn. "Out of alienated property;" how [is this to be understood]? Should he [the husband] have sold his property to others, and she [seeks to] recover [the amount of her Ketubah] from the purchasers, she cannot enforce payment unless she be sworn.[16] "Out of orphans' property;" how [is this meant]? Should he [the husband] die, and leave his property to his orphan children, and she [seeks to] recover [the amount of her Ketubah] from the orphans, she cannot enforce payment unless she be sworn. "If he [the husband] is absent;" how [is this to be understood]? If he is gone beyond seas, and she [seeks to] recover [the amount of her Ketubah] during his absence, she cannot enforce payment unless she be sworn. R. Simeon saith,[17] "Whenever she [a widow] claims [the amount of] her Ketubah, the heirs of her husband can put her upon her oath: but if she does not claim [the amount of] her Ketubah, the heirs cannot put her upon her oath.

§ 9. If a woman produces her Get,[18] but does not produce a [written] Ketubah, she is [nevertheless] entitled to recover [the standard amount of] her Ketubah.[19] Should she produce her [written] Ketubah, but does not produce her Get, but says, "My Get is lost," to which he [the husband] replies, "My receipt [in discharge of thy Ketubah] is lost;" and likewise, in case a creditor produces his bond,[20] but does not produce the judicial pre-monition:[21] [in either of these cases] they [the wife or the creditor] do not recover [the amount

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[16] That her husband has not paid her any part of her Ketubah, and that there is no other property out of which she could be paid.

[17] With reference to the rule laid down in § 4 of this chapter.

[18] Act or letter of divorce. (Vide Treatise Gittin.)

[19] That is to say, if the Get be not torn or cancelled, as this is invariably done by the Bethdin at the time the Ketubah is paid. The fact of her not producing her written Ketubah is immaterial, for the law enacts that every woman shall have a Ketubah; it is, therefore, assumed that she has one, even though it is not in her possession.

[20] After the Sabbatical year, which acquits all debts.

[21] Which alone preserves his right. (Vide Treatise Shebiith, chap. X., § 4, and Moed Katan, chap. III. § 3, note.

they respectively claim]. R. Simeon ben Gamaliel saith, "Ever since the time of [public] danger began, a woman can recover [the amount of] her Ketubah without producing the Get, and a creditor can recover [the amount of] his bond without producing the judicial pre-monition. [Should she produce] two Gittin and two Ketuboth,[22] she is entitled to recover the amounts of both Ketuboth. [Should she produce] two Ketuboth and one Get, or two Gittin and one Ketubah, or one Ketubah, one Get, and [proof of her husband's subsequent] decease,[23] she can only recover the amount of one Ketubah; for he who divorces his wife and takes ber back, does only take her back under the obligation of her first Ketubah. [Of] a minor, whom his father gives in marriage, the Ketubah [which he has signed] continues valid, as it is in virtue thereof that she continues his wife. Should a proselyte embrace Judaism, together with his wife, her Ketubah remains legally valid, as it is in virtue thereof that she continues his wife."

CHAPTER X.

§ 1. [In the case of] him who married two wives, and dies, the first wife has a priority[1] before the second, and the heirs of the first [wife][2] before the heirs of the second wife. Had he first married one wife, who died, and then married the second, at his own decease the second wife and her heirs have a priority before the heirs of the first wife.

§ 2. [In the case of] him that married two wives, both of whom died before his own decease, and when the orphan children claim the Ketubah of their mothers, [while] there is no more [property] than the [exact amount of the] two Ketuboth,[3] they divide [it between the two sets of orphans, share and share] alike. But if there is [any] surplus [property beyond the exact amount of the two Ketuboth, even though that surplus be but a single] dinar, the orphans

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[22] One Ketubah being dated previous to the first Get, and the second Ketubah previous to the second Get.

[23] In case her husband received her again as his wife after the divorce, and she now claims a double amount, one under the Get and one as a widow.

[1] The right to receive payment of her Ketubah.

[2] Should one or both wives die before they have received the amount of her or their Ketubah.

[3] One of which Ketuboth is of larger amount than the other.

of each mother receive the amount of her Ketubah.[4] Should the orphans[5] propose: "We will appraise the property of our father one dinar higher [than the real value]," they are not to be listened to, but the Bethdin must cause the property to be appraised.

§ 3. Should there be any property in expectancy, it is not [to be considered] as in [actual] possession.[6] R. Simeon saith, "Even though there be moveable property [beyond the amount of the two Ketuboth], it is not [to be included in the computation], but there must be immoveable property, exceeding [in value the amount of] the two Ketuboth [by at least] a dinar.

§ 4. He who married three wives and dies, the Ketubah of one [wife] being one hundred dinar, of one [wife] two hundred, and of one, three hundred [dinar], while there is only [property left to the value of] one hundred [dinar], they divide [it between them, share and share] alike.[7] If there be [property to the value of] two hundred dinar, she [whose Ketubah amounts] to a maneh, receives fifty dinar, while she of two hundred and she of three hundred dinar receive three gold-pieces [each gold-piece at twenty-five dinar]. Should there be [property to the value of] three hundred dinar, she [whose Ketubah is] of one hundred dinar receives fifty, she of two hundred receives one hundred, and she of three hundred dinar receives one hundred and fifty [dinar]. In like manner, three who join their funds [form a co-partnership], whether they have diminished or increased their capital, the above is [the proportion to be observed] in which they divide.

§ 5. [Of] him who married four wives and dies, the first wife has priority[8] before the second, the second before the third, and the third before the fourth. The first is put upon her oath by the second, the second by the third, the third by the fourth, but the fourth recovers her Ketubah without being sworn.[9] Ben Nanas saith,

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[4] The larger Ketubah receives the full amount thereof.

[5] Who hold the larger Ketubah.

[6] So as to be included in the estimate of actual property, and by that means produce a surplus beyond the amount of the two Ketuboth mentioned in the preceding paragraph.

[7] In this and the subsequent cases the supposition is, that the Ketuboth are all dated the same day and hour, or that the property to be divided consists of moveables only, which are not subject to the right of priority.

[8] Of rights and receives her Ketubah first.

[9] That she has not received any part of her Ketubah from her husband during his life time.

"What! because she is the last is she to be favored? She likewise cannot recover without being sworn." Should [the Ketuboth] have all been executed on the same day, whichever [of them] precedes the others even by one hour, enjoys [the priority].[10] Therefore in Jerusalem they inserted the hour.[11] Should all [the Ketuboth] have been executed in the same hour, and there is no more [property left] than [to the value of] a maneh, they divide [it between them, share and share] alike.[12]

§ 6. [Of] him who has married two wives, and sells his land,[13] should the first wife undertake in writing to the purchaser, "Right and claim have I none against thee,"[14] the second [wife] may [nevertheless] recover the land from the purchaser.[15] But then the first [wife] recovers it from the second,[16] and the purchaser again recovers it from the first [wife],[17] and thus the title [and possession of the field] keeps shifting [from one to the other] until they come to an arrangement. Such is also the case with a creditor,[18] and if the wife proceeds as a creditor.[19]

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[10] The right to be paid first, whether there be enough for others or not.

[11] In dating the Ketubah they not only set forth the day, but also the hour of the day. This form has been generally adopted.

[12] Vide § 4 of this chapter.

[13] On which both Ketuboth are secured.

[14] To dispossess thee of thy purchase by virtue of my Ketubah.

[15] As she has not renounced the lien her Ketubah gives her on the land; a lien which without her especial consent no subsequent sale of the land can nullify.

[16] By virtue of her right of priority, which she has not renounced.

[17] By virtue of the undertaking which she gave him.

[18] Should A hold a mortgage on B's land, consisting of two plots of ground, one of which B sells to C, and subsequently he sells the second plot to D. Should A renounce his mortgage rights in favor of D, he may nevertheless come upon C, who, as the first purchaser, has a right to come upon D, who, by virtue of the renunciation, has a right to come upon A, who again comes upon C, and so on, till some arrangement is made.

[19] Should the land on which her Ketubah is secured consist of two plots, sold at different times to different persons, and she has renounced her right in favor of the second purchaser.

CHAPTER XI.

§ 1. A widow must be maintained out of the property of the orphans,[1] and her earnings belong to them; and they are not bound to [defray the cost of] her funeral. Her heirs, who inherit her Ketubah, are bound to [defray the cost of] her funeral.

§ 2. A widow, whether [she become such] after betrothment only, or after [actual] marriage, may sell[2] without applying to the Bethdin. R. Simeon saith, "[A widow] after actual marriage, may sell without applying to the Bethdin;[3] but [a widow] after betrothment [only], must not sell, without [previous application to] the Bethdin, because she [the last named] is not entitled to her maintenance [out of the husband's estate]; and any woman who is not entitled to a maintenance, must not sell, without [previous application to] the Bethdin."

§ 3. Should she have sold, mortgaged, or given away [to the whole amount of] her Ketubah, or [to] a part thereof, she must not sell the remainder,[4] without [previous application to] the Bethdin; but the sages hold, "She may make four or five different sales[5] [if] she sells for her necessary maintenance, [and she may do it] without [previous application to] the Bethdin. [In that case, however] she inserts [in the deed of sale], 'I make this sale for my [necessary] maintenance.' A divorced woman must not sell without [applying to] the Bethdin."

§ 4. Should a widow, whose Ketubah is two hundred dinar, sell part of the land liable to her Ketubah [to] the value of one hundred dinar for two hundred, or [to] the value of two hundred dinar for one hundred, [in either case it is held that] she has received the full amount of her Ketubah.[6] Should her Ketubah be one hundred dinar,

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[1] The children of her deceased husband.

[2] The land on which her Ketubah is secured.

[3] Because her Ketubah is to supply her with her necessary maintenance. And as she could expend it, had she received the amount in ready money without applying to the Bethdin, she is entitled to raise money without any such application.

[4] Any addition to the standard amount of two hundred dinar for a virgin, and one hundred for a widow which may be settled upon her.

[5] She may sell the land piecemeal, so as, by different sales, to realise the amount of her Ketubah.

[6] She does not enjoy the profit arising from her sale, although she must bear the loss arising therefrom.

and she has sold to the amount of one hundred and one dinar, the sale is void; even though she offers to make good the one dinar to the orphans, her sale is void.[7] R. Simeon ben Gamaliel saith, "Her sale is always valid,[8] unless she thereby prevents the orphans from having a field of nine kab seed corn, or a garden of half a kab seed corn." According to R. Akivah, "[A garden of] one-quarter kab seed corn."[9] Should her Ketubah amount to four hundred dinar, and she sells to one a hundred dinar worth, and to another a hundred dinar worth, and to the last purchaser she sells to the value of one hundred and one dinar for one hundred, her last sale is void, but all her preceding sales are valid.

§ 5. Should a judicial appraisement be made either one-sixth too high, or one-sixth too low, the sale [made in consequence of such valuation] is void; but R. Simeon ben Gamaliel maintains "That the sale is valid, for if it were otherwise, what would be the good of judicial authority?[10] But if they [the Bethdin] make public advertisement [of the land to be sold], even though they sold what was actually worth one hundred dinar for two hundred, or what was [actually] worth two hundred dinar for one hundred, their sale is valid."

§ 6. She who refuses [to cohabit with her husband],[11] or [who is related to him in] the secondary [degree of consanguinity],[12] or an אילונית,[13] are not entitled to any Ketubah, or [compensation for] usufruct,[14] or maintenance or [compensation for] wear and tear.[15] If at the time of marriage he [the husband] knew that she [the bride] was an אילונית, she is entitled to her Ketubah. A widow [married] to a high priest; a divorced woman, or one who has performed [the ceremony of] *Chalitza*,[16] [married] to an ordinary priest; a bastardess,

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[7] Because she sold what was not her own.

[8] And she need only make good the dinar.

[9] A piece of land equal to nine kab seed corn, is called a field, and to one-half kab seed corn, is called a garden: of less size it is only a plot of ground.

[10] As that is resorted to, because it is binding, and prevents disputes that might arise from difference of opinion in cases of private valuation.

[11] Who having during her minority been given in marriage by her mother or brothers, refuses to live with her husband after she grows up. (Vide Treatise Niddah, chap. VI. § 11.)

[12] (Vide Treatise Yebamoth, chap. II. § 4.)

[13] Vide ib.

[14] That her husband has enjoyed of her property.

[15] Which her property has undergone during that time.

[16] Vide Treatise Yebamoth, chap. I. § 2, note [2].

or Nethineth[17] [married] to an Israelite; or a daughter of Israel married to a bastard or Nethin, are all entitled to their Ketubah.

CHAPTER XII.

§ 1. He that marries a woman, who stipulates that he is to maintain her daughter [by a former husband] five years, is bound to maintain her during the five years. [If he divorces his wife, and] she marries another man, with whom she likewise stipulates that he is to maintain her daughter five years, he is [also] bound to maintain her during the five years. The first husband is not entitled to say, "When she comes to me I will maintain her," but he must bring her maintenance to the place where she is with her mother. Neither are the two husbands at liberty to say, "We will jointly maintain her," but the one must maintain her, and the other give her the value of her maintenance in money.

§ 2. Should she [the daughter spoken of in the preceding Mishna] marry [during the stipulated period of five years], her husband furnishes her maintenance, and they [her mother's two husbands] must give her the amount of her maintenance in money. Should they die, their own daughters are maintained out of their unencumbered property, whilst she must be maintained [even] out of their encumbered [alienated] property, because she is [possessed of the same rights] as a [mortgage] creditor. Prudent men stipulated,[1] "On condition that I maintain thy daughter during five years, provided thou art living with me."

§ 3. Should a widow declare, "I will not remove from my husband's house," the heirs cannot say to her, "Depart to thy father's house and we will there maintain thee;" but they must maintain her in her husband's house, and provide her a dwelling in accordance with her dignity [rank and station in society].[2] Should she declare, "I will not remove from my father's house," the heirs may reply, "While thou art with us thou shalt have thy maintenance, but if thou art not with us, thou shalt not have thy maintenance." Should she object to this, because she herself is young, and the heirs

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[17] Vide Treatise Yebamoth, chap. VII. § 1.

[1] In the Ketubah which, under such circumstances, they signed.

[2] This comprises the use of the furniture and utensils which she had been in the habit of using during the lifetime of her husband, and also the services of the male and female domestics, to whose attendance she is accustomed.

likewise are young, they are bound to furnish her maintenance, and she continues in her father's house.

§ 4. While she continues in her father's house,[3] she is entitled at any time to claim [the amount of] her Ketubah: but if she remained in her husband's house [she is entitled to claim it only during] twenty-five years; for in the twenty-five years she will have done [herself] good,[4] [derived benefits] equal to [the amount of] her Ketubah. Such is the dictum of R. Meir, which he advanced on the authority of R. Simeon ben Gamaliel; but the sages hold, "As long as she remains in her husband's house, she is entitled at any time to claim her Ketubah; as long as she remains in her father's house, she is entitled to claim her Ketubah [only during] twenty-five years. If she dies, her heirs can claim [the amount of] her Ketubah [only] before the expiration of the twenty-five years.

CHAPTER XIII.

§ 1. Two rigorous magistrates were in Jerusalem, Admon and Hanan ben Abishalom. Hanan pronounced two decisions, and Admon seven.[1] [In the case of] a man that went beyond seas, and whose wife claimed her maintenance [out of his real estate], Hanan decided she must be put upon her oath at the close [of the proceedings], but not at the commencement[2] [thereof]. The sons of high priests disputed with him, and maintained that she must be put upon her oath at the commencement as well as at the close [of the proceedings]. R. Dosa ben Harkeenos adopted their opinion, but R. Jochanan ben Zachai declared, "Hanan had decided justly, and that she is not to be sworn till the close [of the proceedings]."

§ 2. [In the case of] a man that went beyond seas, and another

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[3] Where the husband's heirs allow her a maintenance.

[4] The text has שתעשה טובה "she will have done good." Some commentators interpret, "that she will have done good to the poor," others "that she will have treated her neighbours and visitors to an amount equal to her Ketubah." Jost, in his translation, has adopted their rendering; we have, however, preferred adopting the simple wording of the text.

[1] Which the sages did not all approve of, but of which some obtained the force of law.

[2] Not until she claims the amount of her Ketubah, having ascertained that her husband is dead; or, according to Rambam, not until the husband returns and pleads, "I left thee sufficient means for thy maintenance," when she must be sworn that he did not do so.

man took upon himself to maintain the wife [during her husband's absence], Hanan decided, "He [who of his own accord supported her] has lost his money."[3] The sons of high priests disputed with him, and maintained, "He must swear how much he expended [in her support], and he then recovers it." R. Dosa ben Harkeenos adopted their opinion; but R. Jochanan ben Zachai declared, "Hanan decided justly: for the man has placed his money on the antlers of a stag."[4]

§ 3. Admon pronounced seven decisions. [In the case of] a man who at his death leaves sons and daughters, [the rule is that] if the property be ample, the sons inherit [the estate], and the daughters must be maintained [by the sons]; but if the property be scanty, the daughters must be maintained, even though the sons must go from door to door [to beg their bread]. [In opposition to this rule] Admon remarked, "What, because I am a male, am I to be the sufferer?"[5] Rabbon Gamaliel said, "I approve of Admon's remark."

§ 4. [In the case of] a man who sued his neighbour for [certain] jars of oil, and the defendant admits that he owes him for the oil-jars [but denied owing for the oil], Admon decided, "As he admits the demand in part, he must be sworn." The sages said, "This is no admission [as it differs] in kind with the demand."[6] Rabbon Gamaliel said, "I approve of Admon's decision."

§ 5. [In the case of] a man who engages to give [certain] monies to his [intended] son-in-law [as a marriage portion to his daughter], and afterwards holds up his leg at him,[7] [the rule is, the husband may]

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[3] As the husband on his return may say, "I did not request or authorise thee to advance any money for such a purpose, and therefore have not undertaken to repay it." If, however, the advance was made at the woman's request, and under her promise that it should be repaid, the man may sue her, and she summon her husband, who in that case is bound to repay it, unless he can swear that he left her sufficient means for her support.

[4] A figurative expression, signifying that risking his money in such an advance, is placing it in jeopardy as great as if he had put it on the antlers of a stag, which runs away with it without his being able to overtake it.

[5] And forfeit every right to share in the little my father left? Not so!

[6] The sages assume that the demand made is for the oil only; for had the plaintiff considered the jars as a distinct portion of his claim, he would have sued defendant for "certain jars containing oil." And as the demand made is for oil only, while the admission is restricted to jars, which form no part of the plaintiff's demand, Admon's decision is wrong. R. Gamaliel, however, agrees with Admon that "jars of oil" means both jars and oil.

[7] פשט לו את הרגל "holds his foot out to him," a gesture of contempt, as if he

let her sit until her head gets grey. Admon decided, "She has a right to say, 'Had I entered into this engagement for myself [and deceived thee], I ought to sit [forsaken] until my head gets grey; but as it is my father who engaged for me, what can I do? Either take me to thee [as thy wife], or discharge me [from my marriage obligation by divorce].'" Rabbon Gamaliel said, "I approve of Admon's decision."

§ 6. [In the case of] a man who disputed the title to a field,[8] and was himself a subscribing witness,[9] Admon held, "He [the ejector] may plead 'I [come forward now because] the second [holder] I can [more] easily [contest possession with] than the first, who was too powerful for me.'"[10] But the sages say, "He [the ejector] has forfeited his title [and right to the field]."[11] If he had designated[12] [the field in question] as boundary to another [field], he also forfeits his right and title."

§ 7. [In the case of] a man who went beyond seas, and [during his absence] loses the path [leading to] his field,[13] Admon held, "He may make a short cut to it;" but the sages hold, "He must purchase a path, though it cost him one hundred maneh, as otherwise he must fly through the air[14] [to get to his field]."

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said, "Take thy dowry out of the dust on my shoe." Rambam explains, "If after the wedding the father runs away to a far country;" according to this exposition, the phrase of the text would run, "gives him leg-bail."

[8] Of which he declares he has been forcibly dispossessed.

[9] To the deed of sale, by which the alleged usurper conveys this very field to the purchaser whose title he disputes.

[10] Commentators explain his plea in the following manner. "The man who forcibly dispossessed me was so powerful and influential that I preferred to submit, and even tacitly to sanction his usurpation, rather than involve myself in a ruinous contest; and I attested the deed of sale because I wished the field to get into the hands of a man of my own standing, against whom I could enforce my rights."

[11] His sanctioning the sale by his attestation is a complete renunciation of his rights.

[12] If, when selling another field, he has in the conveyance described the disputed field—bordering on the one which he sells—as belonging to the alleged forcible holder, by which description he acknowledges his title.

[13] It having been seized, and made arable by one of the adjoining landowners.

[14] Admon and the sages agree that should the fields adjoining his own belong to different proprietors, he must purchase a right of path, as every one of the neighbours will say, "Prove that it is I, and no one else, who has seized on thy property." They also agree that if all the adjoining fields belong to one proprietor, the man has a right to cut a path, as in that case there can be no doubt

§ 8. [In the case of] a man who [sueing another for debt] produced a bond, while the defendant produced a deed of sale [dated subsequent to the bond], by which the plaintiff conveyed to him a field, Admon remarked, "He [the defendant] can plead, 'Had I been in thy debt, it was for thee to recover thy due when thou didst sell me thy field;'"[15] but the sages say, "This [the] plaintiff was a prudent [man]; he sold him the land in order that he might be able to seize on it as security [for his debt]."[16]

§ 9. [In the case of] two men, who [sueing each other for debt] produce cross bonds against each other, Admon remarked "[The holder of the last dated bond has a right to plead] 'Had I been in thy debt, why didst thou borrow of me?'"[17] But the sages decided, "That each is entitled to recover [the amount of] the bond he holds."[18]

§ 10. [With respect] to marriages [the following] three provinces [are considered as distinct countries, viz.] Judea, [the land] beyond the Jordan, and Galilee. A woman cannot be compelled to [follow her husband who will] remove [out of her own country] from a town to a town, or from a borough to a borough; but within her own country she is compelled to remove [with her husband] from a town to a town, or from a borough to a borough, but not from a town to a borough, or from a borough to a town.[19] She can be compelled to

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that the great proprietor must have seized on his property. The dispute arises from the circumstance that the adjoining fields, though originally the property of different persons, have eventually become the property of one man. The expression "fly through the air" is used to denote the legal impossibility of getting to his field, as any other way he commits a trespass on his neighbour's grounds.

[15] Assuming that the sale arose from want of money, which could not have been the case had the bond been valid, as the plaintiff would then naturally have enforced payment rather than sell his land; that consequently the bond produced must either have been previously paid, or is a forgery.

[16] Assuming that as the debtor possessed no immoveable or other tangible property, the plaintiff got him to buy land, by which means he gained a security for his demand.

[17] Assuming that he borrowed from want of money, which he would not have done had the bond been valid, as the plaintiff would then naturally have enforced payment rather than contract a debt. That consequently the bond bearing the first date must either have been paid before the last dated bond was given, or is a forgery.

[18] Assuming that the bonds arose from bona fide business, and not from want of money.

[19] Because in boroughs the comforts of life are not so readily obtained, and in

move [with him] from an inferior dwelling to a superior one; but she is not compelled to move [with him] from a superior dwelling to an inferior one. R. Simeon ben Gamaliel saith "[She cannot be compelled to move] even from an inferior dwelling to a superior one, because the superior one [if new and previously uninhabited] may occasion sickness."[20]

§ 11. All [persons] can be compelled to move into the land of Israel, but none can be compelled to move out of it. All persons can be compelled to move into Jerusalem, but none can be compelled to move out of it. [This rule applies] alike to men, to women, and to bondmen.[21] Has a man married a woman in the land of Israel, and divorced her in the land of Israel, he must pay her [the amount of her Ketubah] in the coin of the land of Israel. Has he married her in the land of Israel, and divorced her in Cappadocia, he may pay her [the amount of her Ketubah] in the coin of the land of Israel.[22] Has he married her in Cappadocia, and divorced her in the land of Israel, he may pay her in the coin of the land of Israel. R. Simeon saith, "He must pay her in the coin of Cappadocia." Has he married her in Cappadocia, and divorced her in Cappadocia, he must pay her [the amount of her Ketubah] in Cappadocia.

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towns the air is not so pure. In either case she is exposed to a change of habits that may be painful or injurious to her.

[20] But if the bridegroom resides in one country, and marries in another, the wife is bound to go with him, as that is assumed to be a necessary condition of the marriage.

[21] If the husband wishes to move to Palestine or Jerusalem, and the wife will not, he may divorce her without paying her Ketubah. If she wishes to move thither, and he will not, he must divorce her, and pay her Ketubah. The converse of this rule holds good in case of removal from Palestine and Jerusalem. The bondman spoken of in the text is not only the Hebrew engaged for a term of years, but also the Gentile, who from any other country has fled to Palestine or Jerusalem.

[22] The coin of Palestine, though of the same denomination as that of Cappadocia, is lighter, and therefore of less value. The name of Cappadocia stands generally for any country in which the coin bears the same name as in Palestine, while the intrinsic value is different.

XXV. TREATISE NEDARIM.

[Contains laws relating to vows made by females, which the father and the husband have the power to annul, founded on Numbers xxx. 4—16.]

XXVI. TREATISE NAZIR.

[Relates to vows of abstinence. The precepts are founded on Numbers vi. 1—21.]

XXVII. TREATISE SOOTAH.

[Contains laws relating to the woman suspected of adultery, founded on Numbers v. 11—31.]

XXVIII. TREATISE GITTIN.

Introduction.

Under this title the laws relating to the Get [i. e. bill or letter of divorce, of which the word Gittin is the plural term] are specified, without which document no marriage can be legally dissolved. The texts of the Holy Law on which the regulations of this Treatise are founded, are contained in chapter xxiv. of Deuteronomy.

CHAPTER I.

§ 1. It is necessary that a messenger who, from a foreign country,[1] brings a Get [from a husband to his wife], should declare, "This document was written and signed in my presence."[2] Rabbon Gamaliel saith, "[It is necessary that this declaration should be made] even [when it was brought] from [the villages] Rakam and Chagar." R. Eleazar saith, "Even from the village of the Luddites to Lud [Lydda]."[3] But the sages hold, "That only when a person brings a Get from a place beyond sea, or carries it thither, that he is bound

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[1] In the original מדינת הים, "provinces or countries [beyond] sea." All countries with the exception of Palestine are thus called, but it relates more especially to the countries situated beyond its line of sea-coast or western frontier, which is bounded by the Mediterranean.

[2] Because it is supposed that it is only in Palestine where it is generally known that a Get, to be a valid instrument, must be written and signed in the presence of the messenger, if it is intended to send it to another place.

[3] The mentioned places are on the eastern frontier of Palestine, and are known in Scripture by the names of *Kadesh* and *Bared* [see Targum on Gen. xvi. 14]. The two last-mentioned places are also situated near the northern frontier of Palestine.

to declare, 'It was written and signed in my presence.' And the same must be declared by a messenger who, in a country beyond sea, brings a Get from one province to another." Rabbon Simeon ben Gamaliel saith, "Also by one who only brings it from one lordship [jurisdiction] to another [jurisdiction]."

§ 2. R. Jehudah [considers as beyond the limits of Palestine] from Rakam and beyond [Rakam included] all places towards the east, from Ascalon and beyond [including that place] every part towards the south. From Acco and beyond [Acco included] every place towards the north.[4] But R. Meir is of opinion "That Acco must, in respect to Get, be considered as an integral part of the Holy Land."

§ 3. Whoever brings a Get within the limits of the Holy Land, need not declare, "It was written and signed before me," but if any demur is made, its validity must be proved by the signatures [of the attesting witnesses]. Should a messenger bring a Get from a place beyond sea, and is not able to testify that it was written and signed in his presence, its validity must be proved by the signatures of the attesting witnesses.

§ 4. Both Gittin of women and deeds of manumission for slaves, are alike in respect to the person who brings them from, or carries them to [a distant country],[5] and this is one of the points in which the laws respecting Gittin and deeds of manumission are alike.

§ 5. All legal documents, on which the attestation of a Samaritan witness appears, are void, Gittin and deeds of manumission excepted. It once happened that a Get was brought to Rabbon Gamaliel in the village Otnay, which was attested by Samaritans, which he nevertheless declared to be a valid instrument. All legal documents made in courts of justice of non-Israelites are valid, even when the attesting witnesses are not Israelites, Gittin and deeds of manumission excepted. R. Simeon declares these also to be valid, the contrary was only mentioned to apply to the case when they were prepared in an extra judicial manner.

§ 6. When a person says, "Give this Get to my wife, or this deed of manumission to my slave," he can, if he repents of his purpose, take it back.[6] Such is the dictum of R. Meir, but the sages hold

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[4] It was unnecessary to assign the western limit, as the Mediterranean forms its natural and well-defined boundary.

[5] Viz., that this messenger must make the above mentioned declaration, "This document was written and signed in my presence."

[6] That is, before the slave or woman had received it.

"That this is only allowable with a Get, and not with a deed of manumission, because it is permitted to confer advantages on a person in his absence, but not to deprive him of any advantage, except in his presence; for, if a person refuses to maintain his slave, he may do so, but he may not refuse maintenance to his wife." He [R. Meir] thus argued to them: "Does he not surely disqualify both his slave and wife from the right of eating heave?"[7] But they [the sages] replied, "It is because the slave is the priest's property [and is considered in the same light as his cattle] that he has a right to eat of the heave."[8] Should a person say, "Give this Get to my wife, and this deed of manumission to my slave," and dies [before it was delivered], they may not be delivered to the parties mentioned after his decease; but if he said, "You are to give a maneh to A. B.," and dies, that money must be paid [to the legatee].

CHAPTER II.

§ 1. When a person who brings a Get from a foreign country declares, "It was written, but not signed in my presence," or the reverse, or, "The whole [Get] was written, but only in part attested[1] in my presence," or, "Only half of the writing [of the Get] but the whole of the signatures were written in my presence," it is void.[2] Also in case one [witness] says, "It was written," and another, "It was signed in my presence." When two say, "It was written in our presence," and one, "It was signed in my presence," it is also void. But R. Jehudah declares it valid. When one declares, "It was written in my presence," and two declare "It was signed in our presence," it is valid.

§ 2. If it were both written and signed in the day time,[3] or that both writing and signatures were done at night,[4] or that it was

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[7] In case the husband or master is a priest, when the slave is disqualified to eat heave the moment he is manumitted, and the wife as soon as she is divorced; consequently a disability is imposed on them, and both are here damnified.

[8] And the advantage he gains by his manumission, by being raised in the scale of human society, does amply compensate for the prohibition of eating heave after becoming a freeman. Consequently no disadvantage is imposed on him.

[1] That is, signed by one witness only.

[2] That is, if he was present only during the writing of the last part of the Get.

[3] That is, written and signed on one and the same day.

[4] That is, during one and the same night.

written at night, but signed by day, it is valid.[5] If it were written by day, but signed at night, it is void,[6] but R. Simeon declares it valid; for he established it as a rule "That all documents written by day and signed at night are void, except letters of divorce."

§ 3. The writing of a Get may be done with any material, with ink, paint,[7] ruddle, gum, or with vitriol black, and with every other indelible material, but not with any liquor, the juice of fruit, nor with any delible material. It may be written on any thing, even on a leaf of an olive tree or on a cow's horn. In the latter case, however, the husband is bound to give her [the wife] the cow along with it. He may write it on the hand of a slave, but then he must give her the slave also; but R. José prohibits the writing of a Get on any thing endowed with life, or on edible articles.

§ 4. A Get may not be written on any thing that is yet attached or fixed to the soil. If it was so written, and it was afterwards severed from the soil, and then signed and delivered to the woman, it is valid. But R. Jehudah declares it void, for it must be written and signed on what is detached from the soil. R. Jehudah ben Beterah saith, "It must not be written on papyrus, on which an erasure or abrasion appears, nor on unfinished vellum, because it affords opportunity for falsification;" but the sages permit it.

§ 5. All are qualified to write a Get, even deaf and dumb, or foolish persons and minors. A woman may write her own Get, and the husband his acquittance [for the amount of the Ketubah he has paid her], because the validity of legal documents depends solely on the signature of the attesting witnesses. All are qualified [to act as missionaries or agents] to bring over a Get, except deaf and dumb or foolish persons, minors, a blind person, and a non-Israelite.

§ 6. When a minor received [a commission to deliver] a Get and became of age [before he delivered it], or a deaf person whilst in that state, and who afterwards recovered his hearing, or a blind person[8] who subsequently recovered his sight, or a demented person, who

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[5] Because a night and the following day make together a legal day.

[6] Because it was ante-dated, as the night belonged to the following day, and not to that to which the date of the Get referred.

[7] Original סד, which some explain to be a kind of earth found in the Isle of Samos, hence its name in Hebrew.

[8] Because it is necessary that he should be able to attest and say, "I *saw* the Get written and signed."

was afterwards cured, or a non-Israelite,[9] who subsequently became a proselyte, the Get is void. But when a person received it whilst in possession of his faculty of hearing, and before he delivered he became deaf, and again recovered his hearing, or a person who could see, had become blind, and again recovered his sight, or a person of sound mind who had become demented, and was cured: the Get is valid, because the rule is, that when the commencement and end[10] of the act took place, whilst the person was in possession of his faculties, it is valid.

§ 7. Those females who are not considered competent witnesses to testify to a woman in respect to the decease of her husband,[11] are to be credited when [as messengers] they bring over a Get to her, viz., her mother-in-law, the daughter of her mother-in-law, her rival, the wife of her husband's brother, and her husband's daughter. Why is this difference in respect to the evidence as to a Get, or as to the death of a husband? Because there is [in the first mentioned case] a document in existence to confirm the evidence. A woman may bring her own Get with her, but she must declare at the same time,[12] "It was written and signed in my presence."

CHAPTER III.

§ 1. Every Get which is not expressly written for the woman about to be divorced is void; as for instance, if a person passing through a street hears the voice of public notaries [dictating to their clerks or pupils], saying, "A. B. divorces C. D., his wife, living at the place E.," to which he remarked, "That is the same name as mine and that of my wife" [and he gave that Get to the latter], it is void. More rigid than this is, that even when he had ordered a Get to be written for him, to divorce his wife, and afterwards changed his mind, and was met by a fellow townsman, who told him, "My name and that of my wife are exactly the same as yours and that of your wife [give it me therefore to divorce my wife]," the latter may not use it for

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[9] Because he was not subject to the Jewish law, and the rule is, that whatever a person is not obliged to do himself he is not qualified to do for others.

[10] The commencement of the act is, when the messenger received the Get from the husband, and the end is, when he delivers it to the wife.

[11] See Treatise Yebamoth, chapters XV. and XVI.

[12] Before the tribunal, before whom she is to appear to submit the Get for verification.

that purpose. More rigid than this is, that if a man had two wives, whose names are similar, and a Get was written to divorce the elder, he may not use it to divorce the younger. More rigid than this is, that when a man says to a notary, "Write a Get, that I may therewith divorce one of my two wives," he may not use it [for either].

§ 2. [Public] writers of blank forms of Gittin [bills of divorce] must leave sufficient space for the insertion of the names of the husband and wife, and for the date. In blank forms of loan contracts sufficient space must be left for the insertion of the lender's name and that of the borrower, the sum lent, and the date. In forms of deeds of sale, space must be left sufficient for the insertion of the names of buyer and seller, the purchase money, [the description of] the field [sold], and the date. This institution [of allowing blank forms to be made by notaries, to be filled up when required] was made for the convenience of public writers. R. Jehudah, however, declares all such written [and afterwards filled up] blank forms void; but R. Eleazar considers them valid, with the exception of a Get, or act of divorce, because it is written in the Law (Deut. xxv.), "He shall write unto her a bill of divorce," i. e., on purpose for her.

§ 3. If a messenger entrusted with a Get loses it, if he finds it again immediately it is still valid, but not otherwise. If he found it in a pocket or bag [or in any other place], if he identifies it[1] the Get is valid. When a messenger brings a Get from a husband who was aged, or from one he left very ill, he may deliver it on the presumption that the husband is still alive. Thus may an Israelitess whose husband [a priest] went beyond seas, eat of the heave offering on the presumption of her husband being alive. Also, when a person abroad sends a sin offering [to the Temple], it is to be sacrificed, on the presumption of the sender being alive.

§ 4. The three following dictums of R. Eleazar ben Partah, were confirmed by the sages; viz., "That the existence may be presumed of persons who were known to be in a besieged town, or on board of a vessel in a storm, and of an accused person who was led before a tribunal to be judged [in a criminal case], but that in respect to persons living in a town which was taken by assault, or in a vessel that became a wreck,[2] and a malefactor who was led forth to be executed,

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[1] Even if he recognizes the pocket or bag only, as being that in which he put the Get.

[2] The ship is considered in law as a wreck when it has lost its masts, rudder, anchor, and sails, although the hull should not have been damaged.

the laws relating to the living and the dead are to be applied to them in their utmost rigidity."[3] An Israelitess married to a priest, or a priest's daughter married to an Israelite, may not [under the last mentioned circumstances] eat heave.[4]

§ 5. A person who [in the Holy Land] brings a Get from one place to another, and falls ill on the road, may send it further on to its destination by another messenger; but, if the husband had said, "Bring me also from her this or that [valuable] article," he may not send it by another; because the husband trusted him, but would not [perhaps] have trusted the agent.

§ 6. When a person who brings a Get from beyond sea, falls ill on the road, he may empower the Beth Din to nominate another messenger for him, to carry the Get to the person it was intended for: and the first messenger must testify before them, that the Get was written and signed in his presence: the second messenger is not bound to make any such declaration, but need only say, "I am a messenger of the tribunal."

§ 7. When a person lends money to a priest, or to a Levite, or to a poor person, on condition that he may deduct from the debt the tithe or oblation due from him to them, he may do so, in the presumption that they are then alive; neither need he apprehend that the priest or Levite should have died, or the poor man have become rich; but if they died [before the debt was paid] he must obtain the consent of their heirs [to make this deduction], but this is unnecessary if the money was lent in presence of the Beth Din.

§ 8. A person who puts fruit aside to separate from them heave and tithe [due of other fruit], or money to redeem the second tithe [of his fruit], may do so,[5] in the presumption, that the fruit or money set apart is in actual existence; but if the fruit was lost, he must always calculate [in paying the tithe] the quantity [of fruit] which existed twenty-four hours [before the discovery of the loss].[6] Such is the dictum of R. Eleazar ben Shamuang; R. Jehudah saith, "When wine was separated for such a purpose, it must be examined at three periods [of the year], viz. when the eastern winds begin to

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[3] That is, the rigor of the law is to be applied to them both when the law supposes them dead, or when it presumes them yet alive.

[4] Because the husband of the first is presumed to be dead, and that of the second to be alive.

[5] And eat of other untithed fruit.

[6] And must pay tithe accordingly.

blow after the Feast of Tabernacles, when the fruit of the grape vine has set, and when the unripe grapes begin to be juicy."

CHAPTER IV.

§ 1. When a person sends a Get to his wife, and afterwards meets his messenger, or that he sends another agent after the first, who tells the latter [in the sender's name], "The Get I gave you is now annulled," the Get is void; should the husband meet his wife before the arrival of his agent, or that he sends her another messenger [before the arrival of the first], who tells her [in her husband's name], "The Get I sent thee is now annulled," it is void; but when the Get has once reached the wife's hands, it is no longer in the power of the husband to revoke it.

§ 2. Formerly a husband had a right to select a Beth Din in another place,[1] and to declare before them, that he revoked the Get he had sent; but Rabbon Gamaliel the elder ordained, "That this should no longer be permitted, on account of the maintenance of social order."[2] Formerly a husband was allowed to change his or her name, and that of the place in which he and she dwelt;[3] but Rabbon Gamaliel the elder ordained, "That, for the upholding of social order,[4] it would be henceforth required to add to the names of the husband and wife [the words], 'And every other name he [or she] may have.'"

§ 3. Formerly a widow was not paid from the orphans' estate until she had sworn [that she had not even received her Ketubah from the estate]. When they abstained from administering that oath,[5] Rabbon Gamaliel the elder ordained, "That she should solemnly vow [to that effect] in the presence of the orphans, and may then receive her

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[1] That is, in any place from which the wife and messenger are absent.

[2] For it may happen that the messenger, not knowing of the revocation of the Get, brings it to the wife, who thereupon remarries, not being aware that it had been revoked before it was delivered to her.

[3] That is, when there were two names for the same person or town, by one of which it was known in the Holy Land, and by the other abroad; it is not necessary to write both names, but only that used in the place in which the Get was written.

[4] Because her children, in a second marriage, would be prejudiced, as it might be said that their mother was never lawfully divorced from her first husband, the names in the Get being different from those by which the parties are known in that town, and therefore they might, without any real cause, be called the bastard children of an adultress.

[5] It often gave cause to many false oaths being sworn by widows.

Ketubah." [The above, as also] that witnesses must sign the Get, was ordered on account of the maintenance of social order; and the same motive induced Hillel to ordain the פרוזבול or contract of pre-monition.[6]

§ 4. When a person had ransomed a captive slave, if he ransomed him as a slave, he becomes again a slave;[7] but if as a freeman,[8] he cannot afterwards subject him to slavery; but Rabbon Simeon ben Gamaliel saith, "He remains a slave in either case." When a slave was given by his master as a security for the repayment of a debt, and then he manumits him, the slave is not bound in any way [to the second master] according to strict justice; but, for the upholding of social order, the [second] master shall be compelled to manumit the slave, and the latter shall sign a contract of debt for the value he would bring [were he to be sold in the slave market]; R. Simeon ben Gamaliel saith, "The slave need not sign any contract; but the [first] master who manumitted him [must pay his value to the second]."

§ 5. One who is partly a slave and partly free, shall work one day for his master and another day for himself. Such is the dictum of Beth Hillel; Beth Shammai said unto them, "Your institution is good for the master but not for the slave; because, being partly free he cannot marry a bondwoman, nor a free woman on account of his being partly a slave; remain unmarried he may not, since the world was created that man should thereon be fruitful and multiply, as it is said (Isaiah xlv. 19), 'He created it not in vain, he formed it to be inhabited;' therefore, for the sake of upholding social order, the master is to be compelled to manumit such a slave, completely, and the latter shall sign a bond for half of his value." Then did Beth Hillel adopt the opinion of Beth Shammai.

§ 6. When a person sold his slave to a non-Israelite, or to be carried to a foreign country,[9] the slave must be manumitted.[10] No more money must be paid for the redemption of slaves than what they are really worth, for the sake of the maintenance of social

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[6] See Treatise Shebiith, chap. X. § 3.

[7] To the person who ransomed him; this treats of a heathen who had been slave to an Israelite, was made captive, and ransomed by another Israelite.

[8] That is, if he was bought with the intention of giving him his liberty.

[9] That is, out of Palestine.

[10] The tribunal compels the Israelite master to repurchase the slave he had sold, and give him his liberty, as that sale was illegal.

order ;[11] nor are, for the same reason, captive Israelite slaves to be assisted to escape. But Rabbon Simeon ben Gamaliel saith, "It is for the sake of their fellow-captives."[12] No more than the value must be paid for holy writings, *Tephillin* and *Mezuzzot*, when bought of a non-Israelite,[13] for the maintenance of social order.

§ 7. A person who divorced his wife on account of an evil report,[14] may not take her back; also when he divorced her on account of a vow. R. Jehudah saith, "When the vow was known to many people, the husband may not take her back, but he may, when it is not generally known." R. Meir saith, "He may not take her back, if the vow was of a nature to require the investigation of a person learned in the Holy Law [to annul it],[15] but he may when such investigation is unnecessary."[16] R. Eleazar saith, "The prohibition in the first mentioned case was made on account of the second case." R. José ben Jehudah saith, "It happened once at Zidon that a person said to his wife, '*Konam*,[17] if I do not divorce thee,' and did divorce her." The sages allowed him to take her back, [for they issued the above-mentioned prohibition, only] for the maintenance of social order.

§ 8. When a person divorces his wife because she is an אילנית [i. e. one who is unfit to bear children], he may not take her back, according to R. Jehudah; but the sages allow it. If she married another husband, had children by him, and then claims her Ketubah [of the first husband], the latter may reply to her claim, "It were better for you to be silent than to speak."[18]

§ 9. When a person sells himself and his children as slaves to non-Israelites, he is not to be ransomed, but his children are to be ransomed after his death. When a person sold his field to a non-Israelite, and an Israelite purchases it from the latter, the purchaser

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[11] In order not to encourage incursions from foreign enemies for the purpose of making slaves, in the expectation of receiving large sums for their ransom.

[12] Remaining behind in slavery, that they may not be worse treated.

[13] Not to encourage him to steal them.

[14] Of having been guilty of adultery.

[15] Viz. a vow which cannot be annulled by the husband.

[16] When the husband can annul it. (See Treatise Nedarim.)

[17] A legal expression of taking a vow. (See Treatise Nedarim, chap. I. § 2.)

[18] For, having children with the second husband, it becomes evident, that the reason for which the Get was given was ill-founded, and the first husband may say, "Had I known I would have to pay your Ketubah, I would not have divorced you." Her Get becomes thus void, and she an adultress.

must bring the offering of the first fruit, for the preservation of social order.[19]

CHAPTER V.

§ 1. Compensation in damages is to be levied from the best field of an aggressor; for a creditor, from medium property[1] of the debtor; and for the payment of a Ketubah, from that which is least in value. R. Meir saith, "The latter is also to be paid from medium property."

§ 2. They cannot be levied from mortgaged property,[2] while there is yet uncharged property to levy from, although that should be the least valuable. The payment of claims against the estate of orphans, can only be enforced by the sale of their least valuable property.

§ 3. Payment for usufructum,[3] for the improvement of the land, or for the maintenance of a wife and her daughters [of a former marriage],[4] is not to be levied from mortgaged property.[5] All this was ordered for the maintenance of social order, and an oath is not to be imposed on a finder[6] for the same reason.

§ 4. When the estate of orphans is administered by the father of a family,[7] or that the father of the orphans had nominated a person as guardian to them, these persons so acting are bound to tithe the fruit belonging to the orphans. A guardian nominated by the father of the orphans, must swear to his due administration of the estate; but one appointed by the tribunal is not bound to do so. But Abbah Saul says, "It is just the reverse."[8] When a person had

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[19] To discourage the sale of land in Palestine to non-Israelites.

[1] That is, of medium value, that which is neither the best nor the worst property of the debtor.

[2] Or as others explain it, from property already sold, and which has become subject to another.

[3] This treats of a case where a person took forcible possession of the field of another, then sold it to a third, who cultivated it and used the produce. When after this the rightful owner is reinstated by a legal decision in his favor, he need only pay to the third possessor his outlay for the improvement of the estate, leaving the latter for the repayment of his purchase-money, &c. to his remedy at law against the person who fraudulently sold another man's property to him.

[4] When her husband agrees to do so in the Ketubah. [5] See Note [2], above.

[6] To swear that he did not find more than he owned he did find.

[7] That is, one who was not nominated as executor, but acts as such.

[8] Because a person appointed executor does it only either for the sake of his former friendship with the testator, or for the benefit of the orphans, and if an oath were to be imposed, many would refuse to act, and the orphans suffer in consequence.

caused fruit belonging to another to become [legally] unclean, or mixes them with heave, or his wine with other wine used for idolatrous libations; if he did it inadvertently, he is absolved from paying for the damage he has caused; but if he did it wilfully, he is liable. Priests who wilfully render sacrifices פיגול [unacceptable], are bound to make good the damage [to the owner].

§ 5. R. Jochanan ben Gudgodah testified, "That it is lawful to divorce by a Get a deaf and dumb woman, who had been given in marriage by her father; and that an Israelite [orphan] girl, who in her minority had been married to a priest, may eat heave; also, that if she dies first, her husband becomes her heir; also, that the owner of a stolen beam which was used in a large ornamental building, can only claim its present value, to facilitate the repentance of transgressors; also, that a stolen sin-offering, the theft of which was not generally known, does expiate, which was thus ordered for the benefit of the altar."[9]

§ 6. The right of Sicaricon[10] did not prevail in Judea during the war,[11] but it did afterwards; as for instance: When an Israelite bought a field from a Sicaricon [forcible intruder], and afterwards from the rightful owner, the bargain is void; but it is effective if he bought it first of the rightful owner, and then of the Sicaricon. When a person bought a field from a husband, and then of his wife,[12] the bargain is void; but if he bought it first of the wife, and subsequently from the husband, it is effective. Such was the first decision. But a subsequent tribunal decided, that a person who bought a field from a Sicaricon must pay a fourth part of the price paid for the purchase to the rightful owner of the field. This is when it is not in the power of the latter to repurchase his field; but when that is the case, the rightful owners are to be preferred to any one. Ribi constituted a Beth Din, which decided that a field which had remained for a twelvemonth in the power of a forcible intruder [Sicari-

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[9] That the priests might not suppose they had been eating profaned offerings, and refuse to minister, by which means the altar would remain unoccupied.

[10] From the Latin *Sicarii*. It treats here of an Israelite who bought a field of a heathen, who, by violence and threatening to murder the rightful owner, had forcibly ejected him from his property.

[11] That is, during the great war against the Romans under Vespasian and Titus, when lawful authority was powerless to shield those whom the barbarous conquerors murdered and violently despoiled.

[12] Who has a lien on that field by her marriage contract.

con] may be sold to any one, but the purchaser must pay a fourth part to the former rightful owner.

§ 7. A deaf and dumb person may enter into engagements by contract, by means of mutual signs [between the contracting parties]. Ben Beterah saith, "Where the contract affects moveable property only, the mutual motion of the lips suffices." When children have arrived at the age of discernment,[13] their purchase or sale of moveable property stands good.

§ 8. The following ordinances were made for the sake of promoting of peace: That a Cohen should read first in the Holy Law, then a Levite, and an Israelite afterwards, for the sake of peace; the Erub must be placed in the same house in a court where it had always been put, for the sake of peace; the well nearest to the water-course must be filled first, for the sake of peace. Taking out of nets or traps belonging to other people,[14] [any animal, bird, or fish] therein caught, was made constructive felony, in order to preserve peace. R. José saith, "It is a real felony." What a deaf and dumb or foolish person or minor finds [is his own], and the taking it from him was made a constructive felony, for the preservation of peace. R. José saith, "It is a real felony." It was also ordained, in the case of a poor person beating down olives from the top of a tree, that the fruit so dropped is his property, and whoever takes it from him will be considered guilty of a constructive felony. R. José saith, "It is a real felony." Non-Israelite poor must not be prevented to glean in the fields of Israelites, from gathering the forgotten [corn ears], and from the produce of the corner of the field [reserved for the poor], for the sake of peace.

§ 9. One woman may lend to another who is suspected [not to observe properly the laws] of the Sabbatical year,[15] a flour-sieve, a winnow, a handmill, and a stove, but she may not assist her to winnow or to grind. The wife of a חבר [i. e. one learned in, and observant of, the law] may lend to the wife of an unlearned person, a flour-sieve or a winnow, and may aid her to winnow, to grind, or to sift; but as soon as water is poured over the flour, she may not further assist her, for those who transgress the law are not to be aided in their transgressions. All the mentioned permissions have been granted for the sake of peace only. A heathen [who works in

[13] At the public readings in the synagogue.

[14] This treats of nets where the animals or fish were not completely caught, and might have escaped.

[15] Compare Treatise Shebiith, chap. V.

the fields] during the Sabbatical year may be comforted,[16] but not an Israelite;[17] and the former may be greeted at any time, for the sake of promoting concord.

CHAPTER VI.

§ 1. When one person says to another, "Receive this Get for my wife," or, "Bring this Get to my wife," he may, if he likes, take it back again;[1] but when the wife said [to the messenger], "Receive for me my Get," the husband cannot resume it. Therefore, should a husband say to the messenger, "I do not wish that you should receive it for her [as her messenger], but go and give it her [as my messenger]," he may, if he likes, resume it again. Rabbon Simeon ben Gamaliel saith, "Also, when the wife said, 'Fetch me my Get,' the husband cannot take it back."

§ 2. A wife who had said, "Receive for me my Get," must produce two [sets or] pairs of witnesses; two must testify [and say], "She uttered this [order] in our presence," and two more to say, "The messenger received the Get, and tore it up[2] in our presence;" the same witnesses may however testify to the truth of both assertions, or one of the first and one of the second pair of witnesses may conjoin with them a third person to bear testimony. A betrothed girl may either receive her Get herself, or her father may receive it for her. R. Jehudah saith, "That right cannot be possessed at the same time by both parties; but her father only has a right to receive her Get." Any female who is too young to take proper care of her Get, cannot be divorced at all.

§ 3. When a female minor said, "Receive my Get for me," the Get is ineffective until it has reached her hands. Therefore, should the husband wish to revoke the Get, he is at liberty to do so, because a minor has not the power of appointing a messenger [or deputy]; but if her father said [to the messenger], "Go and receive my daughter's Get," the husband cannot revoke it. When a husband says,

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[16] By wishing him good success, &c.

[17] Because he is a transgressor, in labouring in his field during the Sabbatical year.

[1] That is, he may revoke the commission he gave. Note that in this as in the following sections, this revocation is admissible only *before* the Get was delivered to the wife.

[2] This relates to a time of persecution, when the Get was torn up as soon as a divorce had taken place.

"Give this Get to my wife in the place N. N." and the messenger gave it her elsewhere, the Get is void. [But if the husband had only said] "My wife is in the place N. N." and the messenger gave it her in another place, it is valid. When a woman says, "Receive for me my Get in such a place," and the messenger received it for her in another place, it is void; but R. Eleazar declares it valid. If she said, "Bring me my Get from such a place," and he fetched it from elsewhere, it is valid.

§ 4. When a wife says, "Bring me my Get," she may [if married to a priest] continue to eat heave till the Get has been delivered into her hands. When she said to a messenger, "Receive my Get for me," she may not, from that instant, eat any longer of the heave. If she said, "Receive my Get for me, and bring it to the place N. N." she is permitted to eat heave till the time the Get can have reached that place; but R. Eleazar prohibits it immediately.[3]

§ 5. When a husband says, "Write a Get, and give it to my wife," or, "Divorce her," or, "Write a letter [אגרת] and give it her," they are to write the Get, and give it her. If he said, "Release her," or, "Provide her her maintenance," or, "Do with her as is customary," or, "Do with her as is proper," what he has said amounts to nothing. Formerly, it was held that when a criminal was led out with an iron collar [to the place of execution], and he said, "Write a Get for my wife," they should write it, and deliver it to her. It was afterwards decided, also those that are about going to sea, or to travel with a caravan [in the desert]. R. Simeon Sazuree saith, "Also those who are dangerously ill."

§ 6. If a person who was cast into a pit, called out from thence, that whoever should hear his voice should write a Get to his wife, they shall write it and deliver it to her. When a person in health says, "Write a Get for my wife," he must be considered as if joking with her. It once happened that a person in health said, "Write a Get for my wife," and then went on his roof, from whence he fell and died; Rabbon Simeon ben Gamaliel saith, "The sages decided upon that occasion, that if he fell down with premeditation [on his part] the Get is valid, but not if the wind blew him down."[4]

§ 7. If a husband says to two [men], "Give a Get to my wife,"[5] or to three, "Write a Get, and give it to my wife," they shall write,

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[3] That is, immediately the messenger left her to proceed on his mission.

[4] Or that he fell owing to any other accidental circumstance.

[5] Without adding that they were to write it.

and deliver it to her.[6] If he said to three, "Give a Get to my wife," the latter can depute others to write it, because he constituted them a tribunal. Such is the dictum of R. Meir, and this doctrine R. Hanina of Ono[7] brought with him from prison;[8] [he said] "I have received a tradition, that when the husband said to three men, 'Give my wife a Get,' that they may depute others to write it, because he constituted them a tribunal." R. José saith, "We tell this emissary,[9] We [also] have a tradition, that when a husband had said even to the Great Tribunal in Jerusalem, 'Give my wife a Get,' the latter are bound to study [the laws of Get],[10] write a Get, and deliver it to the wife." When a husband says to ten [men], "Write ye and deliver a Get to my wife," one of that number shall write, and two others sign it, but if he said, "Write it all of ye," then one shall write, and all must sign it. Therefore, if one of them should die,[11] the Get becomes void.

CHAPTER VII.

§ 1. If a person seized with Cardiacos[1] should say, "Write a Get for my wife,"[2] his words are not to be noticed. If he said [before he was taken ill], "Write a Get for my wife," and when seized with the Cardiacos, he said, "Do not write it," his last words are not to

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[6] And require no other writer or witnesses.

[7] The name of a place.

[8] Where R. Akivah was incarcerated, and from whom he learned the above narration.

[9] Viz. R. Hanina of Ono, who was deputed to communicate this doctrine to the sages.

[10] If necessary, or if they had no practice in the writing of a Get. [See Maimonides' Commentary, *ad literam*.]

[11] Before the delivery of the Get.

[1] Hebrew קַנְרְדְיָקוֹס, and in other copies of the Mishna קֶרְדְיָקוֹס. This word, which signifies a species of disease, is probably derived from the Latin. Commentators differ widely as to what disease is here alluded to. Maimonides explains it to be a determination of blood to the vessels of the brain, affecting the patient's reasoning faculties. According to the "Aruch" the word is of Greek origin, and signifies an affection of the digestive organs. This is corroborated by Celsus, who describes a similar disease under the same name. But De Pomis, and the modern lexicographers, explain it to be a preternatural palpitation of *the heart*.—"Affectus *cordis* in quo sentitur pulsatio præter naturam." (De Pomis, Lexicon ad literam.)

[2] That is, "To divorce her," and in this sense throughout.

be noticed. When a person became dumb, and on being asked, "Shall we write a Get for your wife?" nods his head [in token of assent], he shall be questioned three times, and if he [by his motions or gestures] answers rightly the questions proposed to him, both affirmative and negative, they may in that case write a Get and deliver it to his wife.

§ 2. If a person [in health, or a sick person acquainted with the Law] is asked, "Shall we write a Get for your wife?" and he answered, "Write it;" and they ordered the notary in consequence, who wrote it, and the witnesses, who signed it: although it was duly written, attested and delivered to the husband, who delivered it to his wife, nevertheless it is ineffective, because it is only then valid when the husband himself orders the notary to write, and the witnesses to attest it.

§ 3. [When a husband says to his wife] "This is your Get in case I die," or, "If I die of this illness," or, "To take effect after my decease," his words are vain;[3] but if he said, "Here is your Get, to take effect from this day," or, "from this moment, if I should die," it is a valid Get. If he said, "To take effect from this day and after my death," it is doubtful whether such Get is valid or not:[4] and in case he dies [without leaving issue], his widow must perform the ceremony of Chalitzah to her brother-in-law, but the latter may not marry her by Yeboom.[5] If he said, "This is your Get from this day if I die of this illness," and he rose [from his sick bed], went out into the street, and became ill again and died: if he died in consequence of a relapse of the former illness the Get is valid, but not otherwise.

§ 4. Under the mentioned circumstances[6] the wife may not meet the husband but in the presence of witnesses.[7] A slave or a bondwoman is a competent witness for this purpose, her own bondwoman

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[3] Because the right of divorce does not exist after death, as that event dissolves the marriage tie.

[4] Because it is uncertain whether the husband really meant that the Get should be effective from that day if he were to die, and the condition being confirmed by the event of his death, the Get should be valid; or, whether he said at first, "The Get is to be effective from that day," and he then changed his mind, saying, "[It will not take effect] till after my decease," in which case it is void, for the reason stated in the preceding note.

[5] On account of the doubt as to the validity of the Get.

[6] Viz. when the husband said, "This is your Get from this day and when I die."

[7] Lest he might have intercourse with her.

excepted, because a mistress is usually quite familiar with such a one.[8] How is she to be considered during that interval?[9] According to R. Jehudah, "As a married woman in every respect," but according to R. José, "As one whose divorce is doubtful."

§ 5. If he [a husband] says, "Here is your Get, on condition that you give me two hundred zooz," she is divorced from the moment she accepts the Get, and is bound to pay the stipulated amount. If he said, "On condition that you give me [two hundred zooz, or any other sum] within thirty days," and she consented and paid the amount agreed upon within the time stipulated, she is duly divorced, but not if she did not pay it within that time. R. Simeon ben Gamaliel relates, "That once at Sidon a husband said to his wife, 'Here is your Get, on condition that you give me my אצטלית,'[10] and she lost it:[11] the sages decided that the Get should be still valid, if she paid him a sum equal to the value thereof."

§ 6. If a husband says to his wife, "Here is your Get, on condition that you wait on my father," or "suckle my child" [the period allowed for the general duration of suckling a child is two years]. What period is she bound to suckle it? R. Jehudah saith, "Eighteen months only, and if during that period the child or the father should die, the Get is valid." If he said, "Here is your Get, on condition that you wait on my father for two years," or "suckle my child two years," and either the child or the father dies, or that the latter refuses her services, without being angry with her, the Get is not valid: but Rabbon Simeon ben Gamaliel considers it valid under the mentioned circumstances, for he establishes it as a rule "That every impediment which does not proceed from the part of the wife does not render the Get void."

§ 7. Should a husband say to his wife, "Here is your Get if I do not return within thirty days,"[12] and intending to travel from Judea

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[8] And perhaps she may not be ashamed before her, &c. (Compare chap. VIII. § 9 of this Treatise.)

[9] This does not relate to the last mentioned case, but to that of a husband who is dying, and says to his wife, "From this moment, and while I am alive thou shalt be divorced by this Get, provided I *now* die and do not recover."

[10] This word is of Greek origin ("stolium"), and signifies an ornamental or state dress. According to De Fomis it is a kind of cloak or upper garment. "Stola" in Latin, probably the same as the English word "stole."

[11] And of course could not give that *identical* dress.

[12] According to the Gemarah the following words must be added to this and the following proposition, "If I arrive at Galilee or ——" i. e., that the husband

into Galilee he returned after having proceeded to Antipatris[13] only, he has voided his condition. If he said, "Here is thy Get if I do not return within thirty days," and intending to travel from Judea to Galilee returns from the village Otenai,[14] he has voided his condition.[15] If he said, "Here is thy Get if I do not return within thirty days," and intending to travel beyond sea he went only as far as Acco[16] and returned, he has voided his condition. If he said, "Here is thy Get if at any time I should stay away for thirty days from thee," though he should frequently go and return for that period, the Get is valid, provided he did not remain alone with her.

§ 8. When a husband said to his wife, "Here is thy Get if I do not return within a twelve-month," and he died within that twelve-month, the Get is void; but if he said, "This is thy Get from the *present moment*, if I do not return within a twelvemonth from this day," and he died within that time, the Get is valid.

§ 9. When a husband said, "If I do not return within a twelve-month from this day, write ye, and deliver a Get to my wife;" if they wrote it within the twelve-month, but did not deliver it till after that time, the Get is void. If he said, "Write ye, and deliver a Get to my wife if I do not return within a twelve-month from this day;" if they wrote it within that time, but did not deliver it till after the expiration thereof, the Get is void. R. José saith, "It is valid in similar cases." If they wrote and delivered it after the expiration of the twelve-month, and the husband died meanwhile; if the delivery of the Get preceded the death of the husband, the Get is valid, but not if posterior to that event; and where it cannot be ascertained which event was prior to the other, she is to be considered as one whose divorce is doubtful.

CHAPTER VIII.

§ 1. When a husband throws a Get to his wife, when she is in her own house, or in the court she lives in, she is thereby divorced.

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made a double condition, viz., "If I arrive in Galilee the Get shall be valid *immediately*, but if not, it shall be valid only in case I do not return within thirty days."

[13] A place on the extreme limits of Judea.

[14] Situated on the confines of Galilee.

[15] And the Get in this and in the preceding cases is void.

[16] A sea-port on the Mediterranean, now called Acre.

If he threw it within his house or court, even if it lies near her on her bed, she is not divorced [thereby]; but if he threw it within her lap or her work basket, she is divorced.

§ 2. If a husband said to his wife [about to be divorced], "Take this bond," or, that she finds a document fastened to his back, which she reads, and finds to be a Get addressed to her, such a Get is void, while he does not expressly say, "Here is thy Get of divorce." If he put it into her hands whilst she is asleep, and on waking she reads it, and finds it to be a Get addressed to her, it is void, until the husband says to her, "Here is thy Get." If the wife was standing in a public place or street, and the husband throws it towards her: if it fell nearest to her, she is divorced, but not if it fell nearest to him; when it lies in the middle [between them], it is doubtful whether or not she is divorced.

§ 3. It is even so with the marriage bond, and [the payment of] a debt. If a creditor said to his debtor, "Throw me the payment of the debt due to me by you," and the latter did throw it: if it fell nearest the creditor, the debtor is free,[1] but if it fell nearest to the debtor, this latter is liable; if it fell in the middle between them, both must share the risk. When a wife was standing on her roof, and her husband threw a Get to her: if it reached within the air-space[2] of the roof, she is divorced. If the husband stood on the roof, and the wife below, and he threw the Get down to her, it is valid as soon as it arrived below the level of the roof, although it should [in its further descent] have become obliterated, or burned.

§ 4. Beth Shammai decide, "That a woman may be divorced by an old Get;" but Beth Hillel hold it to be prohibited. What is an old Get? Every Get [is so called] after the writing of which the husband was alone with his wife.

§ 5. When a person dates a Get by a foreign reign,[3] or according to the chronology of the Median or Greek monarchies,[4] or [so many years] since the building of the Temple, or since the destruction of the Temple, or when West is written when it should be East, or the contrary, then a woman [who, upon the strength of such a Get, had remarried] must be separated from both husbands. She must receive

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[1] Of the obligation of repayment if the money so thrown was lost.

[2] That is, within three hand-breadths of the surface or level of the roof.

[3] That is, by a dynasty which does not reign in the place the Get was written.

[4] Or by any other monarchy which does no longer exist.

a Get from both, and has no claim on either for the amount of her Ketubah, for her right of usufruct, for maintenance, and for the damage she might claim for the wear and tear of clothes belonging to her,[5] and is bound to refund whatever she may have received on that account from either husband; her child by either husband is a bastard;[6] neither of the husbands may [if they are priests] pollute themselves with her dead body, nor has either of them a right to what she may find or earn, or to annul her vows. If she is an Israelitess, she is disqualified to marry a priest; if the daughter of a Levite, she is prohibited to eat tithe; and if a priest's daughter, to eat heave; the heirs of neither husband have a right to her Ketubah, and when these husbands die, the brothers of both must have the ceremony of Chalitzah performed by her, but may not marry her by Yeboom. When his or her name, or the name of his or her city [or residence], have been written on the Get in a manner different [from the real names], she must [in case she remarried upon such a Get] be separated from both husbands, and she is subject to all the above-mentioned regulations.

§ 6. In the cases of women who are within the degree of consanguinity with whom it is forbidden to intermarry, and whose rivals it is permitted to marry;[7] should these rivals marry, and it is afterwards ascertained that the mentioned relations are unfit to bear children [אילונית], then the said rival must be separated from the husband she has married, and also from the brother-in-law, and is subject to all the mentioned regulations.

§ 7. When a person marries his sister-in-law by Yeboom, and her [former] rival married some other person, and she who married the brother-in-law was then ascertained to be an אילונית, then the said rival must be separated from the husband she married, and from the Yabam [or brother-in-law], and is subject to all the mentioned regulations.

§ 8. When a notary writes a Get for a husband to divorce his wife, and an acquittance for the wife [acknowledging the receipt of the amount of her Ketubah], and gave by mistake the divorce to the wife, and the acquittance to the husband, who interchanged them

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[5] This is explained in Treatise Yebamoth, chap. X., § 1, et seq., and also in Treatise Ketuboth.

[6] This is according to R. Meir, but the Halacha, or doctrinal decision, is to the contrary effect.

[7] See Treatise Yebamoth, chap. I.

with each other; and when, after a time, the mistake is discovered, by the Get being found in the husband's possession, and the acquittance in that of the wife, she must [if she had already married another husband] be separated from both, and is subject to all the above-mentioned regulations. R. Eleazar saith, "If the error is discovered in time [i. e. before she remarried], the Get is void, but if not, it is valid; because the right of the first husband is insufficient to destroy the claim the second husband has upon her."[8] When a person wrote a Get to divorce his wife, and afterwards changed his mind, he has, according to Beth Shammai, already disqualified her to be married to the priesthood [at any time]; but, according to Beth Hillel, she is not disqualified, even in the case when he actually delivered a Get to her conditionally, which conditions were not fulfilled [and rendered the Get void].

§ 9. When a person who had divorced his wife passes the night with her at an inn, Beth Shammai decide, "She does not require another Get of him," but Beth Hillel consider it necessary. This difference of opinion is only when he divorced her after having been married, and cohabited with her; but if he divorced her when she was only betrothed to him, both schools agree that no second Get is necessary, because he has not yet been intimate with her. If a person married a woman who had been divorced with [a so called] bald Get[9] [גט קרח], she must be separated from both husbands, and is subject to all the above-mentioned regulations [§ 5].

§ 10. A bald Get may, according to ben Nanas, be made perfect by any one; but R. Akivah saith, "It may only be perfected by persons whose evidence, when tendered in other cases in her behalf, is admissible, although they should be related to her." What is a bald Get? One which has more folds than subscribing witnesses.[10]

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[8] R. Eleazar apprehends that some collusion may exist between the woman and the first husband, who [to the prejudice of the second husband] may have clandestinely exchanged their documents, so as to be allowed to cohabit again.

[9] See the next § and note.

[10] This answer is too concise to explain the subject of the question to any one unacquainted with the passage in another part of the Mishna, to which allusion is here made. It is mentioned, in Treatise Baba Kama, that the priests were often in the habit to divorce their wives in sudden fits of passion, and repented soon after; when, as priests, it was unlawful for them to take them back, after having been once divorced. The sages, therefore, instituted this kind of Get, for the purpose and with the intention of delaying the divorce, and to facilitate a reconciliation between the parties taking place. For much time was spent in the preparation of the said Get, as, after the writing of one or two lines, it was

CHAPTER IX.

§ 1. When a husband divorces his wife, and [on delivering the Get] says to her, "Thou art herewith allowed to be married to any man except to A. B.," such a Get is said to be valid by R. Eleazar; but the sages declare it void. How must a husband act in such a case? He must take the Get back, and return it to her, saying at the same time to her, "Thou art herewith permitted to be married to all men." But if he wrote the exception in the Get, although he took it back and erased it, that Get is void.

§ 2. If the husband said, "Thou art herewith permitted to be married to any man, except to my father or to your father, to my or to your brother, to a slave or to a non-Israelite," or to any other person with whom she is interdicted by law to marry, the Get is valid. If he said, "Thou art herewith permitted to be married to any one, except as a widow to a high priest, or as a divorced woman, or one released by Chalitzah, to an ordinary priest; as a bastardess or Nethinah to an Israelite, or as an Israelitess to a bastard or Netin," or to any with whom the marriage has a legal force, although it was illegally contracted; the Get is void [in all such cases].

§ 3. The essential substance of a Get are the following words: "Thou art [herewith] permitted [to be married] to all men." R. Jehudah saith [the following is the essential part], "Thou hast herewith of me a writing of separation, a letter of divorce, and a document of dismissal, that thou mayest go and be married to any man thou mayest like." The essential substance of a document for the manumission of a slave, is the following: "Thou art herewith a free woman [or man], and thou wilt henceforth [by virtue of this document] be dependant on thyself alone."

§ 4. In three cases a Get is invalid, yet, any child born to the wife

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ordered to be folded and sewn, so that there were many folds, to each of which the signature of at least one witness was to be affixed, at the back; when any fold appeared to which no signature of a witness was attached, it was called a bare or bald Get [גט קרח], and was void in consequence; because, it is supposed, that the folds were originally made to correspond with the number of subscribing witnesses, and that the husband told every one of them to sign it, with which, apparently, one or more of them did not comply, who, therefore [as mentioned in the Mishna above], have caused the Get to become void.

in a subsequent marriage is legitimate, viz. When a husband wrote the Get himself, but there are no subscribing witnesses to it; or, if the attestation was attached to it, but it wanted the date; or, that it was [properly] dated, but attested by one witness only. These are three cases when the Get is void, but in which a child born to the wife in a subsequent marriage is nevertheless legitimate. R. Eleazar saith, "Although there be no attesting witnesses to the Get, it is still valid if the husband delivered it to the wife in the presence of witnesses; and [in respect to bonds given for debt, under similar circumstances] the creditor can recover it from mortgaged property,[1] because the attestation of contracts by witnesses has been instituted, solely with a view to the promotion of order and regularity."

§ 5. When two men sent two Gittin, exactly alike in their contents, and these became interchanged, both Gittin are to be delivered to each woman [in turn]; hence, when one of the said Gittin was lost, the other becomes ineffective. When five men write together in a single Get, the man A. to divorce his wife B., and the man C. his wife D., and so forth, and this is duly attested by the signature of witnesses, this Get will be valid to divorce all these [wives], and must be delivered to each [separately]. If, however, a Get was written on the same page for each woman, and duly subscribed by witnesses, then that Get only is valid to which the signature of the witnesses are read [with].[2]

§ 6. When two Gittin are written by the side of each other [on the same page], and they are undersigned by two witnesses [who sign] in Hebrew, underneath each other, and it is further signed by two other witnesses, who sign in Greek, also underneath each other, then, that Get only is valid to which the first witnesses are read.[3]

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[1] See chap. V., note [2], page 290 of this Treatise.

[2] Namely, the last Get on the page, underneath of which the witnesses have signed.

[3] This will be best understood by the annexed diagram. Supposing the lines under A. and B. to represent two Gittin, written in two columns on the same page, and signed by two witnesses in Hebrew, and by two others in Greek, in a manner that part of their signature appears under each Get. It will be plainly perceived, that the names of the witnesses who write in Hebrew is under the Get to the right, and the names of their fathers under the left hand Get, because Hebrew is written from right to left, but in the

But if it was signed alternately by a witness in Hebrew, and by another in Greek, underneath each other, both Gittin are void.

§ 7. If part of a Get was written on the second column of a page, and the witnesses have signed underneath, it is valid. If the witnesses signed it at the beginning of the second column, or in the margin, or on the back of a plain Get,[4] it is void. If the commencement of one Get was written at the side of the commencement of the other, and the witnesses signed in the middle, both are void. [If the end of the one is at the side of the end of the other, and the signatures of the witnesses between them, that with which the attestation is read is valid]. If the commencement of the second Get followed immediately the end of the first, with the names of the witnesses at the bottom [between the two], then that Get only is valid to which, at its conclusion, the names of the witnesses are read.[5]

§ 8. A Get written in Hebrew but attested in Greek, or one written in Greek but attested in Hebrew, or to which one witness attested in Hebrew and another in Greek, or one attested by the writer and another witness, is valid. If only the plain [or given] name of a witness is signed to the Get [without his father's name], with the addition of the word "witness," it is valid. Also, if it was signed "son of A. B. witness;" or, when he wrote his own and his father's name, but omitted the word "witness" [it is also valid], for thus was it customary among the pure or liberal men of Jerusalem. If the surname of either the husband or the wife had also been written in the Get, it is valid likewise. A Get written in consequence of a compulsive legal decree by an Israelite tribunal is valid; but not one which was forcibly imposed by the mandate of a non-Israelite tribunal. Yet the latter is nevertheless valid, when the non-Israelite tribunal compels it in accordance with the Israelite law, and orders the culprit to conform to what the Israelite law requires of him.

§ 9. When a rumour prevails in a town that a woman had been

Greek signatures, as also in that written in any of the modern languagess [which are written from left to right], the reverse must necessarily occur, and the names of the witnesses appear under the Get to the left, and that of their fathers under that to the right, and in that case our Mishna decides, that "the Get to which the first witnesses are read is the only valid one," viz. if the Hebrew signatures are the first, then the Get towards the right is valid, but if the Greek signatures are first, then the Get towards the left is the only valid one.

[4] As contradistinguished from a folded Get, which is signed on the back.

[5] Viz. the first.

betrothed, that woman must be considered as one betrothed.[6] If it is again reported that she had been divorced, she must be considered as a divorced woman; but this is only when no reasons for doubt exist. Reasons for doubt are, for instance, when it is reported that such a one was divorced but conditionally; or that he threw the marriage-bond towards her, and it is doubtful whether it fell nearest to him or her. These are reasons for doubt.

§ 10. Beth Shammai say, "No man may divorce his wife, unless he found in her scandalous behaviour [unchastity], for it is said [Deu. xxiv.], 'Because he found in her some scandalous behaviour [ערוה];'" but Beth Hillel say, "Even if she spoiled his food, because it is said, [ערות דבר]".[7] R. Akivah saith, "Even if he found one handsomer than her, for it is said [ibid.] 'If it happen that she found no favor in his eyes.'"

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[6] That is, when there are corroborating circumstances, such as more lights, or more company than usual, having been seen at the house of such a female.

[7] Which he explains ערוה, 'unchastity," or דבר, "for [any other] cause," though trifling, such as spoiling a dish. R. Akivah will understand from the text, that a man is at liberty to divorce his wife, even without any fault on her part, which he exemplifies by the instance of a man finding a woman fairer than his wife. It was from the ambiguous, or rather vague expression of the quoted text, that these sages have drawn these inferences so opposed to each other, not that they intended, at least the latter two [viz. Beth Hillel and R. Akivah], to apply them practically, for, not to mention that the Halacha, or doctrinal decision, rejects this interpretation of the text by R. Akivah, it must be quite obvious, that no society could exist, in which a husband was at liberty to divorce his wife, the moment he could find another that pleased him better. The limits of a note do not permit to show more amply from various parts of the Talmudical writings, that divorces were always discouraged, and permitted only under peculiar circumstances, and for a legal object. It must therefore suffice to quote the concluding words of the Gemara, Treatise Gittin.—R. Eleazar saith, "Even the altar drops tears when a man divorces the wife and companion of his youth, for thus it is written (Mal. ii. 13, 14), 'And this have ye done again, covering the altar of the Lord with tears, with weeping, and with crying out.... Yet ye say, Wherefore? Because the Lord hath been witness between thee and the wife of thy youth, against whom thou hast dealt treacherously, although she is thy companion, and the wife of thy covenant.'"

XXIX. TREATISE KEDUSHIN,

OR, OF BETROTHING.

Introduction.

Under this title, several laws relative to the acquisition of a woman as a wife are mentioned. It is called קדושין from קדש "to consecrate, or set apart;" as by that act a woman is "set apart," as it were, for her husband only. Several other regulations, not immediately connected with the subject of the treatise, are (as is usual in the Mishna) occasionally introduced.

CHAPTER I.

§ 1. A wife is acquired in three ways, and may recover her liberty[1] in two ways. She is acquired by money, by a marriage contract, or through carnal connection [with her].[2] What sum of money is required [for the mentioned purpose]? According to Beth Shammai, "It must not be less than a denarius [דינר] or its value;"[3] but according to Beth Hillel, "It is sufficient if it be a פרוטה, or the value

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[1] To dispose of herself, and marry again.

[2] That is, when he says, "Behold thou art wedded to me with this connection," &c. Although such a marriage is a legal one, and cannot be dissolved, except by a Get or the death of the parties, yet the man who thus marries, is, as a transgressor against morality and decency, punishable by the Tribunal with the infliction of מכת מרדות, or, "stripes for rebellion."

[3] This is calculated to be equal to ninety grains of pure silver.

thereof." What is the value of a פרוטה? The eighth part of an Italian asser [איסר איטליקי].[4] She regains her liberty by a Get [letter of divorce], and the death of her husband. A woman whose husband died without issue, and who is left to a brother-in-law to be married by him according to the laws of Yeboom, is fully acquired by the brother-in-law as a wife by carnal connection with her. She regains her liberty either by performing the ceremony of Chalitzah, or by the death of her brother-in-law.

§ 2. A Hebrew slave becomes his master's property by money paid for his purchase, or by virtue of a contract, and recovers his liberty by [the termination of his] years [of servitude], by the Jubilee, and by the decrease in the value of his original purchase money through his servifude.[5] A Hebrew bondwoman's rights are more extensive than those of the Hebrew bondman, inasmuch as she regains her liberty when she produces the signs [of puberty]. A slave, who after six years of service wishes to remain with his master, is acquired by the latter through the act of piercing the slave's ear [Exod. xxi. 6], and recovers his liberty by the Jubilee, or the death of his master.

§ 3. A Canaanite slave is acquired by money paid for his purchase, a contract, or by any act of the slave indicative of his subjection,[6] and can, according to R. Meir, recover his liberty by his purchase money being repaid to his master by other people, and by a deed of manumission which he himself receives. But the sages say, "Also when the purchase money is repaid by himself, or the deed of his manumission was received by others; but the money must be given to him for that purpose by other people."[7]

§ 4. Large cattle are acquired by the delivery [of the animal from the seller to the buyer], and small cattle by raising them. Such is the dictum of R. Meir and R. Eleazar; but the sages decide, "That

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[4] Bartenora explains in chap. iv. of ערדיות, and in chap. vii. of כלים, that this is Italian Greece, now called Calabria, which was anciently colonised by the Greeks, and called by them Megala Hellas, or Magna Græcia [Great Greece]. The value of a פרוטה is only half a grain of pure silver.

[5] A Hebrew bondwoman or slave has a right to redeem herself at any time, by refunding to her master the proportion of the original purchase money due for services not yet performed; *ex. gr.* If sixty pieces were paid for six years' servitude, the slave may after three years repurchase his liberty for thirty pieces.

[6] That is, personal services to the master, such as tying or untying his shoes, &c.

[7] Because, otherwise it becomes the master's property.

the legal acquisition of small cattle is by their being driven away [by or for the buyer]."

§ 5. [Immoveable] property on which a lender has a retrogressive or permanent right,[8] is acquired by purchase money, deed of sale, or taking possession. [Moveable] property which does not afford that security to a lender, is acquired by being removed by the purchaser. Property of the description last mentioned is acquired along with other property which does afford permanent security, through the payment of the purchase money, by a deed of sale, or taking possession. Yet, property which does not afford that security, can cause its owner to take an oath on account of the mentioned immoveable property.[9]

§ 6. In all things the value of which must be reduced into money,[10] as soon as one person has taken possession of the property he has received in barter, the other party acquires a property in that for which he exchanged it, as for instance: If a person bartered [with another] an ox for a cow, or an ass for an ox, as soon as one party has taken possession of the article bartered, the other becomes possessed of the thing received in exchange, and is liable to any risk appertaining thereto. The right of property is secured to the Sanctuary as soon as the purchase money [for the article bought] is paid; but that of private persons, only when they have taken actual possession. A promise of property to the Sanctuary[11] is equivalent to the delivery to a private person.[12]

§ 7. All duties which it is incumbent on a father to do for his son,[13] are incumbent on males only, but not on females; but the obligation of all duties from a son to his father[14] is incumbent on both sexes. The observance of all affirmative precepts of the law, the

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[8] Which confers on the lender of a mortgage an inalienable right as far as he is concerned, and until he is paid; for should the borrower sell the property, the lender has a right to take it from the buyer, and thus it always retrogresses to the lender.

[9] Although no oath is taken for immoveable property only.

[10] Namely, all things that are exchanged for others, except coin.

[11] When a man says, "This ox, or sheep, &c. I consecrate to the Sanctuary."

[12] Which completes the bargain, and the seller is no longer at liberty to repent of his bargain.

[13] They are:—1, to circumcise him;—2, to redeem him, if a firstborn;—3, to instruct him, or have him instructed in the Holy Law;—4, to teach him [or have him instructed] in a trade or handicraft;—5, to marry him at a proper age;—and 6, to have him taught the art of swimming.

[14] Viz. to honour and fear him.

performance of which is limited to a certain time, are incumbent on males, and not on females; and all affirmative precepts, the performance of which is not limited to a certain time, are obligatory on both sexes. All negative precepts, whether their performance does or does not depend on time, are obligatory on both sexes, except the precepts not to destroy [the beard] (Lev. ix. 27), not to cut round the corners of the hair (ibid.), and against contamination from a dead body [which, either do not apply to, or are not obligatory on, females].

§ 8. The imposition of hands [on animals about to be sacrificed], the wavings [of offerings], the bringing [meat-offerings] to the altar, the taking of the handful of flour thereof, the burning of incense, the wringing or pinching off the heads of birds [brought as sacrifices], the sprinklings and receiving of the blood [of sacrifices] are obligatory on males only, and not on females,[15] except the meat-offering of a suspected adultress and of a woman who had taken the vow of a Nazarite, which these women must wave [personally].

§ 9. Every precept which especially applies to the soil of the land of Israel[16] is obligatory only within the land of Israel, but those which do not especially apply to that land[17] are obligatory in and out of Palestine, except the precept of "Orlah"[18] and "Kilaim."[19] R. Eleazar saith, "Also the prohibition to eat of the new corn."[20]

§ 10. Whoever duly observes the commandment of the law will receive happiness from heaven; his days will be prolonged, and he shall hereafter inherit felicity in the land of eternal bliss. But he who does not perform any commandment will not receive happiness from heaven, his days will not be prolonged, nor shall he hereafter inherit felicity in the land of eternal bliss. Whoever is versed in the law, in the Mishna [oral law], and the usages of civilized society will not easily fall into sin, as it is written, "A threefold cord is not easily broken" [Eccl. iv. 12]; and those who are ignorant of the written and oral law, and also of good morals, are unfit for human society.

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[15] Because the Scripture mentions these commands in the masculine gender, וסמך ידו וקמץ והגיש, &c.

[16] Such as the obligation of tithe heave, the agrarian rest during the Sabbatical year, &c.

[17] As the observance of the Sabbath, תפילין, circumcision, &c.

[18] Vide Leviticus xix. and Treatise Orlah.

[19] Ibid. and Treatise Kilaim.

[20] Before it was offered in the temple.

CHAPTER II.

§ 1. A man may betroth a woman either personally or by his proxy, and a woman may also be betrothed either personally or by her proxy. A father may likewise betroth his daughter while she is a minor [נערה] either personally or by his proxy. If a man said to a woman [offering her several dates at the same time], "Be thou betrothed unto me with this date"—"Be thou betrothed unto me with this." If among these dates there is any single one worth a Prutha she is betrothed, but not otherwise; but should he have said, "With this, and this, and this," she will be betrothed if all these dates have the aggregate value of a Prutha, but not otherwise; but if, meanwhile, she eat some of them, she will only then be betrothed if among the last dates [he gave her] there was one worth a Prutha.

§ 2. [Should a man say to a woman] "Be thou betrothed unto me with this cup of wine," and it was found to be honey, or if he said "honey," and it was found to be wine; or, "with this silver denarius," and it was found to be a golden one; or, "with this golden one," and it was found to be silver; or, "on condition that I am rich," and he was found to be poor; or, "that I am poor," and it was subsequently ascertained that he was rich, she is not betrothed. R. Simeon, however, says, "If the error or deception was in her favor the betrothing is valid."

§ 3. If he said, "On condition that I am a priest," and he is a Levite, or the reverse; "That I am a Netin,"[1] and he is found to be a bastard, or the reverse; "That I live in a small town," and it is afterwards discovered that he lives in a large town, or the reverse; "That my house adjoins the public baths," and it is found situate remote from it, or the reverse; "That I have a daughter or bondwoman who understands the dressing of hair," and it was found that he had not such a one, or the reverse; "That I have no children," and it is found that he has, or the reverse: in all these cases the betrothing will be void, even though the woman declares she was resolved to be betrothed to the man, notwithstanding his misrepresentation. The above also applies in case the misrepresentation proceeded from the woman.

§ 4. If a man says to his proxy, "Go and betroth for me the woman A. B., in the city C.," and he [the proxy] went and betrothed

[1] See Treatise Yebamoth.

her elsewhere, the betrothment is void; but if he only said, "She is in the city C.," and the proxy betrothed her elsewhere, the betrothing is valid.[2]

§ 5. If a man betrothed a woman on condition that she is not subject to any vow, and afterwards ascertains that she is, the betrothment is void. If he married her on the tacit understanding of the non-existence of such vows, and they are found to exist, he may divorce her, and is not bound to pay her the amount of her marriage contract. If [he betrothed her] on condition that she has no bodily defects, and she was found to have them, the betrothing is void. If he married her on a tacit [understanding of the non-existence of such defects], he may divorce her and is not bound to pay her the amount of her marriage contract. The same corporeal blemishes which disqualify a priest[3] do also disqualify females for marriage.

§ 6. If a man betrothed two females with the value of a Prutha,[4] or one woman with something of less value than a Prutha, the betrothment is void, even though afterwards he sent her many bridal presents, because these presents were only sent on the [supposed validity of the] previous betrothment. It is even so when a minor has thus betrothed a woman.

§ 7. If a person betrothed a mother and daughter at the same time, or two sisters at the same time, the betrothment is void [for either]. It happened once, that a man was gathering figs in a basket for five women, two of whom were sisters. The figs did indeed belong to the females,[5] but it was fruit of the Sabbatical year.[6] The man said, "All of ye shall be betrothed unto me with this." One of the females went and accepted the basket for all the others. The sages then decided "That the betrothment was void, as far as regarded the sisters."

§ 8. When a priest betrothes a woman with his share in the most holy sacrifices, or with that of sacrifices sacred in a minor degree, the betrothment is void.[7] Also, according to R. Meir, "If he betrothed a woman either knowingly, or through error, with his share in the second tithe."[8] The betrothment is void, according to R. Jehudah,

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[2] Vide Treatise Gittin, chap. VI. § 3.

[3] Leviticus, chap. xxi. [4] See Treatise Ketuboth, chap. VII. 7.

[5] It is necessary that the article given as a betrothment should be the man's property. [6] The produce of the fields are then common to all.

[7] Because they were only given to the priests to eat, and not to be applied in any other way.

[8] Because he profaned sacred things wilfully, by using them for this purpose.

if he did it inadvertently, but valid, if he did it wilfully.[9] If he used consecrated things, the betrothment is valid, according to R. Meir, if he used them wilfully for that purpose, but void, if he used them through inadvertence. R. Jehudah saith, "If he used them through error, the betrothment is valid, but it is void, if he used them thus wilfully."

§ 9. When a person uses for the purposes of betrothment fruits of "Orlah," or "Kilaim" of the vineyards; or with an ox condemned to be lapidated [Exod. xxi. 29]; or with a calf whose neck is to be struck off [Deut. xxi]; or with the offering of birds of the leper; or with the hair of a Nazarite; or with the firstling of an ass [Exod. xiii. 13]; or with meat boiled in milk; or with the flesh of animals slaughtered for profane use in the temple-court: such betrothment is void;[10] but if he sold the mentioned articles, and used their proceeds for this purpose, the betrothment is valid.

§ 10. When a person betrothes a woman with heave, or with tithe, or with the oblations due to the priest,[11] or with the waters of expiation, or with the ashes [of the red heifer], she is duly betrothed, even when the man is an Israelite.[12]

CHAPTER III.

§ 1. When one person says to another, "Go and betroth for me the woman A. B.," and the person deputed went, and betrothed her [surreptitiously] for himself, she is betrothed to him. Also, if a man should say to a woman, "Behold, thou art wedded to me [&c.] after thirty days [from the present date]," and another person betrothed her within these thirty days, the second betrothment alone is valid; and if she is an Israelitess, and married a priest, she may eat heave. If the person who first betrothed her had said, "From this day, and after thirty days," and another betrothed her within that time, it is a case of doubtful betrothment.[1] Hence, whether she

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[9] R. Jehudah does not consider it a profanation of sacred things, to apply them for the purpose of betrothment.

[10] Because it is unlawful to derive any benefit from the mentioned things.

[11] Viz. the shoulder, the two cheeks, and the maw of the sacrifice.

[12] And inherited them from a deceased maternal grandfather, who had been a priest.

[1] And she must receive a divorce [Get] from each. (See Treatise Gittin.)

is an Israelitess married to a priest, or a priest's daughter married to an Israelite, she may not eat heave.

§ 2. Should a man say to a woman, "Behold thou art wedded to me, on condition that I give thee two hundred zooz,"[2] the betrothment is valid when he pays them. [If he said] "On condition that I pay the money within thirty days," the betrothment is valid if he pays it within the stipulated time, but not otherwise. "On condition [or with the understanding] that I am possessed of two hundred zooz," the betrothment is valid if he has them. "On condition that I am able to shew you two hundred zooz," the betrothment is valid, when he exhibits them to her, but not if he merely showed them to her upon a money-changer's table.

§ 3. [If he said] "On condition that I own a field on which a כור[3] of corn may be sown," the betrothment is valid if he can shew that he is actually possessed of such a field. "On condition that it is situated in the place A. B.," the betrothment is valid if it is really there situated, but not otherwise. "On condition that I can shew thee a field on which a כור of seed-corn may be sown," the betrothment is valid if he does shew it to her, but not if he only shews it her in a vale not his own.[4]

§ 4. R. Meir saith, "Every contract which does not provide for the negative case, like that between the tribes of Gad and Reuben and the other tribes of Israel, is void, for there it is said [Num. xxxii. 29, 30], 'And Moses said to them, If the children of Gad and Reuben will pass with you over the Jordan,' &c.; and also, 'But if they will not pass over with you armed,'" &c. R. Hanina ben Gamaliel says, "On that occasion, it was necessary to mention it,[5] for were it not for that addition, it might be supposed, that in case of non-fulfilment of the condition, they should not receive any possession whatever in the land of Canaan."[6]

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[2] A small silver coin, the fourth part of a shekel.

[3] A measure of capacity, containing thirty seahs.

[4] Although he has it on hire, or on lease.

[5] And not in the case of betrothing, as R. Meir wishes it, because the negative case is amply provided for, and fully understood by the condition; so that if, for instance, a man betrothed a woman, on condition of her being possessed of certain monies or other property, it is understood, and unnecessary to stipulate, that if he does not possess it, the condition is to be void. The Halacha, or decision, is therefore against R. Meir's opinion.

[6] That is, not only the countries of Gilead and Bashan, which they desired, as particularly adapted to pasture their numerous flocks and herds, should not

§ 5. Should a man, after having betrothed a woman, say, "I thought her to be a priest's daughter, and I now find she is a Levite's daughter; or, "That she was poor, and I found her to be rich," or the reverse: the betrothing is valid, because the deception did not proceed from her. When a [heathen] man says to an [Israelite] woman, "Thou art betrothed to me when I shall have become a proselyte to Judaism;" or [to a heathen woman], "When thou shalt have become a Jewess;" or [in the case of slaves], "After" [or to a bondwoman], "After thou shalt be manumitted;" or [to a married woman], "After the death of your husband;" or, "After the death of your sister" [to whom he is married]; or, "When thou shalt become released by Chalitzah from thy brother-in-law," all such betrothings are void. Also, if one man should say to another, "If thy wife shall be delivered of a female child, it shall be betrothed unto me." But if the said wife was so far advanced in pregnancy, that that fact is plainly perceptible, and she was delivered of a female child, the betrothment is valid.[7]

§ 6. When a man said to a woman, "Behold thou art wedded to me, on condition that I intercede for thee with the ruler [of the land]"; or, "That I work for thee as a hired servant," the betrothing is valid if these conditions were fulfilled, but not otherwise. If he said, "On condition of my father's approval," the betrothing is valid if the father consents to the match, but not otherwise.[8] If the father died meanwhile,[9] the betrothing is valid, but if the son died, the father shall be instructed to say that he would have refused his consent.[10]

§ 7. When a father says, "I have betrothed my daughter, but do not remember to whom," and a man comes and says, "You

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be given to them, but also that they should not share with the tribes in any other part of Canaan beyond Jordan. (Vide Rashi's Commentary on Num. xxxii. 30.)

[7] Of course the child, on becoming nubile, is not bound by such an agreement, but may make use of her right of מאן, or refusal, if she thinks proper, as mentioned in chap. IX. of Yebamoth; but it binds the father that he cannot betroth her during her minority to another man, before she received a Get of the first.

[8] This is, in case he said, "If my father does not express his disapprobation within a certain time, say thirty days."

[9] Within the thirty days, or stipulated time.

[10] This is done in favor of the woman, to release her from the obligation of waiting for any brother of his to receive Chalitzah of, or be married to by Yeboom, as, till either is done, she would be tied to that brother-in-law. (See Treatise Yebamoth.)

betrothed her to me," that man is to be credited. If two men claim to have betrothed her, both must give her Get; or if they thus agree, one man may give her Get, and the other may marry her.

§ 8. Should a man say, "I betrothed my daughter," or, "I had betrothed her, and received during her minority a Get for her from the person to whom I had betrothed her," and at the time he makes that declaration she is yet in her minority, he may be credited; but when he says this after she had attained her majority, his declaration cannot be received. If he said, "She was a captive, and I ransomed her," he is not to be credited, whether she was then a minor, or had attained her majority. A person who declares on his death-bed that he has children[11] is to be believed, but if he said, "I have brothers,"[12] he is not to be believed.[13] When a person betrothes one of his daughters, without mentioning which, those that are nubile are not included.[14]

§ 9. When a person who has two sets of daughters [שתי כיתי בנות] of two wives,[15] says, "I have betrothed my eldest daughter," and it is uncertain whether he meant the eldest of the daughters by the first wife, or the eldest of those by the second wife, or the youngest of the daughters by the first wife, who [of course] is older than the eldest by the second wife, none may marry except the youngest of the second marriage or set. Such is the dictum of R. Meir; but R. José saith, "They may all marry except the eldest of the first marriage." [If a man said], "I have betrothed my youngest daughter, and know not whether it was the youngest of the first marriage, or the youngest of the second, or the eldest of the second set, who [of course] is younger than the youngest of the first," none of these may marry, according to R. Meir, except the eldest of the first marriage; but R. José permits it to all, except the youngest of the second marriage.

§ 10. When a man claims having betrothed a woman, and that woman denies the fact, then he may not marry her relatives, but she may marry his. If a woman alleges having been betrothed to a

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[11] Which releases his widow from the obligation of Yeboom.

[12] So that the widow cannot marry again till these brothers are found, and she is released from them.

[13] Because he may have said so, with the intention of preventing his widow ever to marry again.

[14] But the younger ones must have Get before they can marry.

[15] Whom he married one after the other.

man, and that man denies it, he may marry her relatives, but she may not marry his. Should a man say, "I have betrothed thee," and the woman answer, "Thou hast betrothed my daughter," then the relatives of the mother are prohibited to him, but she may marry his, he may marry the relatives of the daughter, and she his relatives.

§ 11. When a man says to a woman, "I betrothed thy daughter," and she says, "Thou didst betroth me," he may not marry the relatives of the daughter, but she may marry his. He may marry the relatives of the mother, but she may not marry his relatives.

§ 12. In every case where a valid betrothing, without the transgression of any law, has taken place, the child participates, and becomes entitled by his birth, to the privileges of the father, as, when the daughters of a priest, Levite, or Israelite are married to a priest, Levite, or Israelite. But wherever a valid but illegal marriage has taken place, the child participates in the disqualifications of the faulty parent; as, when a widow was [illegally] married to a high priest, or a divorced woman, or one who had performed the ceremony of Chalitzah, who was married to an ordinary priest; a bastardess or a female "Netin" married to an Israelite; or an Israelitess married to a bastard or to a Netin; and also in all cases where the betrothing cannot lawfully take place between some parties, but might be lawful with others,—any child born in such an illegal marriage is a bastard. This is the case when a man committed incest with any relative prohibited to him by the Holy Law. And in all cases where the woman cannot marry neither that man, nor any other, the child will be [disqualified] like the mother, as in the case of a bondwoman and a non-Israelite female.

§ 13. R. Tarphon saith, "It is possible that bastards may eventually succeed in removing that stain. In what manner? When a bastard marries a heathen bondwoman, her child will be a slave; and when the master manumits that child, he becomes a freeman."[16] But R. Eleazar says, "He is both slave and bastard."

CHAPTER IV.

§ 1. Ten kinds of families went up from Babylon [to Palestine, with Ezra, at the building of the second temple], viz. 1, priests; 2, Levites; 3, Israelites; 4, profaned; 5, proselytes; 6, freedmen; 7, bastards; 8, Netinim; 9, of unknown lineage; and 10, foundlings.

[16] And is no longer a bastard.

The three first mentioned may intermarry. Levites, Israelites, profaned proselytes, and manumitted slaves may intermarry among themselves; and the last mentioned six may also intermarry among themselves.

§ 2. Of unknown lineage are all those whose mother is known, but not their father. A foundling [אסופי] is one who was picked up in the streets, and knows neither father nor mother. Abba Saul used to call one of unknown lineage [שתוקי] "a ברוקי," i. e. one subject to examination.[1]

§ 3. All that are prohibited to enter the congregation [of the Lord] may intermarry; but R. Jehudah prohibits it. R. Jehudah says, "Those whose prohibition is certain, may intermarry; but not those whose prohibition is certain, with those whose prohibition is doubtful, or the doubtful with the certainly prohibited, or the doubtfully prohibited, among each other. Doubtfully prohibited are those of uncertain lineage, foundlings, and Samaritans."[2]

§ 4. A priest, who intends to marry a priest's daughter, must previously make inquiry[3] in respect to four mothers [i. e. the mother and grandmothers of his intended wife], which four [are in fact] eight,[4] viz. 1, the bride's mother; 2, her maternal grandmother; 3, the mother of her mother's father; 4, the mother of the last mentioned; 5, her father's mother; 6, the mother of the latter; 7, the mother of the paternal grandfather; and 8, the mother of the last mentioned. And when he intends marrying a Levite's or an Israelite's daughter, he must make inquiries for yet another degree.

§ 5. These inquiries are not necessary in respect to a priest who had ministered at the altar, or to a Levite who had officiated at the דוכן, or choir in the temple, or of an Israelite who had been a member of the Sanhedrin, and of all those whose ancestors were known to have held high public offices, or had been appointed wardens or overseers of the poor; all these are qualified to marry in priest's families without any previous examination. R. José says, "Also

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[1] His mother was examined whether his father belonged to one of the three first mentioned classes.

[2] Samaritans are now considered as non-Israelites in every respect.

[3] Whether any of these had been married to unqualified persons, otherwise the sons born in such marriage would be disqualified priests.

[4] Viz. four on the mother's, and four on the father's side. This inquiry is only then necessary when the reputation of the bride's family is impugned; and even in that case the assertion of the females themselves, though unsupported by extraneous evidence, is held to be sufficient.

those whose name is to be found signed as a witness in the ancient archives of the tribunal of Zepporis."[5] R. Hanina ben Antigonus saith, "Also he whose name is inscribed among the royal army."[6]

§ 6. The female descendants of a desecrated priest are for ever disqualified to be married to the priesthood. An Israelite married to a profaned woman, their daughter is qualified to marry a priest; but the daughter of a desecrated priest married to an Israelitess, is disqualified to marry a priest. R. Jehudah saith, "The daughter of a male proselyte is even as the daughter of a desecrated priest [disqualified to be married to a priest]."

§ 7. R. Eleazar ben Jacob saith, "The daughter of an Israelite who had married a female proselyte, is qualified to be married to the priesthood; and the daughter of a male proselyte who had married an Israelite woman is also qualified; but not the daughter of a male proselyte married to a female proselyte. This applies to proselytes and to manumitted slaves, even to the tenth generation, and is in force till the mothers of these are Israelites." R. José is of opinion, "That even the daughter of a proselyte who had married a female proselyte, is qualified to be married to the priesthood."

§ 8. A father who says, "This son of mine is a bastard," is not to be believed: even should both parents admit that the child in the womb of the female is a bastard, they are not to be believed; but, according to R. Jehudah, their assertion is to receive credence.

§ 9. When a man empowered a deputy to conclude for him the betrothing of his daughter, and did subsequently betroth her himself to another man, if his betrothment was first, it is valid, but if the betrothing through the deputy had preceded that by the father, that of the deputy is alone valid; and when it cannot be ascertained which betrothing was prior, both husbands must give her Get, or, if they

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[5] Because that tribunal was known to make strict inquiries into the character of witnesses. This passage [in the original בערכי הישנה של צפורי] has been variously explained. Some understand the word הישנה to be the name of a place near Zippori, and ערכי public registrars of genealogical lists. But the denoting ה prefixed to the word ישנה, as also the word של, which shews it to be in regimen, afford, in our opinion, sufficient proof that our rendering is the more probable one. It appears to have been also thus understood by Maimonides. (See his Commentary, *ad loc.*)

[6] Original באסטרטיא, from the Greek "Strateia," or host. It is unlikely, however, that all the soldiers should be of good family; it is, therefore, supposed to apply here only to the royal body guards, which were selected from the best families.

should thus agree, one may give her Get, and the other may marry her; and, in like manner, when a woman empowers a deputy to conclude a betrothing for her, and she betrothed herself subsequently [to another man], if her betrothing was the first, hers is valid, but if that by the deputy was prior to hers, then that alone is valid; and when it cannot be ascertained which betrothment was the first, both husbands must give her Get, or, if they thus agree, one may give her Get, and the other may marry her.

§ 10. When a husband and wife departed to a distant country beyond sea, and he returns with her, and with children, and says, "This is the same wife that went away with me, and these are her and my children," he need not bring any further proof as to the legitimacy of either wife or children; if he says, "My wife died [abroad], and these are her children," he must prove the legitimacy of the children, but is not required to prove that of the wife.

§ 11. Should he say, "I married a woman abroad, this is she, and these are her children," he must prove the legitimacy of the wife, but need not prove that of the children. Should he say, "The wife I married [abroad] is dead, and these are her [and my] children," he must produce proof of the legitimate descent of both wife and children.

§ 12. A man ought not to be in a secluded place alone with two women, but one woman may be alone with two men; R. Simeon saith, "A man may be alone with two women, if his wife is with him, and may sleep with them at the same inn,[7] because his wife guards him;" a man may, however, be alone with his mother or daughter, and even sleep together, but when they are full grown they may only sleep together when both are dressed.

§ 13. An unmarried man should not keep school,[8] nor should a woman do so;[9] R. Eleazar saith, "Also, he whose wife is not with him."

§ 14. R. Jehudah says, "An unmarried man should not tend [or pasture] cattle, nor should two unmarried men sleep together under the same coverlet;" but the sages permit both.[10] All men whose

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[7] Or rather a caravansary, where all sleep together in the same room.

[8] The reason is stated to be, that, as the mothers of the scholars frequently come to visit them, it may not give occasion for calumny and scandal, either regarding him or them.

[9] Not to lose her reputation by the visits of the fathers of her scholars.

[10] The Halacha, or decision, is against R. Jehudah, because Israelites are not to be suspected of the commission of so horrid a crime as ——.

business leads them to be much in the company of females, should avoid being alone with them; nor should any one have his son apprenticed to a trade which is to be exercised exclusively among females; R. Meir saith, "A person should always endeavour to have his son taught a light and respectable business, and pray [for success] to Him to whom belongeth all riches and property; since there is no trade among whom there are no poor as well as rich, and neither riches nor poverty are derived from a trade alone,[11] but all depends upon personal merit and moral worth;" R. Simeon ben Eleazar saith, "Didst thou ever see any animal or bird exercise any trade or handicraft? and yet they are maintained without trouble or care; they were created to serve me; would it not follow, that I, who was created for the sole purpose of worshipping my Creator, should also find my maintenance without trouble, if it were not that, through my evil conduct, I have forfeited my maintenance?" Abba Goryom, from Zadyan, said [in the name of Abba Guryah], "A person should not bring up his children to be ass or camel drivers, barbers, mariners, shepherds, or shopkeepers, for these are not honest trades."[12] R. Jehudah says [in the name of Abba Guryah], "Most of the ass drivers are wicked persons, but the greater part of the camel drivers are generally honest; most mariners are pious; the best of physicians is destined for hell,[13] and the best butcher is a suitable companion for Amalek."[14] R. Nahorai saith, "I leave every business, and have my son only taught the Holy Law, for its rewards are partly enjoyed here, but the principal reward is reserved, to those who occupy themselves therein, in the future world. It is not thus with other [worldly] trades, for when a man engaged in them becomes

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[11] Because they generally only enable men to gain a bare livelihood, or, as it is sometimes said, "To live to work, and to work to live."

[12] Those who follow the five first-mentioned trades [which are mean ones] are suspected of pilfering the property of others in the fields, roads, and other unfrequented places, where their business leads them; also not to keep faithfully their agreement with their employers.

[13] Because they are supposed not to be piously inclined, and, in the cure of diseases, to trust too much to their skill; according to others, because they do not sufficiently sympathise with the pains of their fellow-creatures, and will neglect a poor patient, and prove the cause of his death, in order to attend to their own interest in waiting on a rich patient, &c. It is almost needless to say, that all the above are not laws, but merely the expressions of private opinions.

[14] Because it is supposed that his habits of shedding the blood of animals renders him cruel towards men, like that blood-thirsty nation the Amalekites.

ill, or old, or suffers from other woes, and cannot longer work at them, he must perish of hunger. Not so the law, for it preserves a man from evil in his youth, and in hoary age it holds out to him the best hopes and expectations [of a glorious futurity]. In respect to his period of youth, it is said,[15] 'But they that trust in the Lord shall have renewed strength;' and regarding the period of old age, it is said,[16] 'They shall still bloom in old age, they shall be full of sap and verdant;' and thus it is said concerning the patriarch Abraham,[17] 'Abraham was old, and God had blessed Abraham in all things.' We find also that Abraham our father observed the whole law, even before it was given, for thus it is said,[18] 'Because that Abraham obeyed my voice and kept my charge, my commandments, my statutes, and my laws.'"

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[15] Isaiah lx. 31. [16] Ps. xcii. 9. [17] Gen. xxiv. 1. [18] Gen. xxvi. 5.

סדר נזיקין

OR, DAMAGES; TREATS OF THE RIGHTS OF PERSONS AND THINGS.

XXX. TREATISE BABAH KAMAH,

THE FIRST GATE.

XXXI. TREATISE BABAH MEZIAH,

THE MIDDLE GATE.

XXXII. TREATISE BABAH BATHRA,

THE LAST GATE.

[The above Treatises contain civil laws. They are called "Gates," because, in the East, justice is administered in the city gates.]

XXXIII. TREATISE SANHEDRIN.

[Contains ceremonial laws. It also treats of the institution of the municipal and provincial Sanhedrin, and of the great Bethdin, or Sanhedrin at Jerusalem; whence its name.]

XXXIV. TREATISE MACOOTH.

[Treats of corporeal punishments; also, of false witnesses, and of the involuntary homicide, and the cities of refuge.]

XXXV. TREATISE SHEBUOTH.

[Contains precepts for the administration of oaths.]

XXXVI. TREATISE EDIOTH,

TESTIMONIES.

[Is so called because it consists of laws which tried and trustworthy teachers attested to have been adopted by the elder teachers, in Sanhedrin assembled.]

XXXVII. TREATISE ABODAH ZARAH.

[Contains laws relating to idolatry, heresy, and the enticers or seducers to either.]

XXXVIII. TREATISE ABOTH,

ETHICS OF THE FATHERS.

[Contains moral precepts, maxims, and apothegms, of the elder, or Mishnic teachings.]

XXXIX. TREATISE HORIOTH,

PRECEPTS.

[Treats of such errors in judgment committed by the great Sanhedrin as require a sin-offering. Vide Lev. iv. 13—21, and 22—26.]

Which closes the Seder Nezekin.

סדר קדשים

CONSECRATED THINGS; CONTAINS

XL. TREATISE ZEBACHIM.

[Having laws relating to sacrifices generally.]

XLI. TREATISE MINCHOTH,

MEAT-OFFERINGS.

[Containing laws relating to offerings of flour.]

XLII. TREATISE CHOLIN

CONTAINS various laws and regulations in respect to the killing or slaughtering of cattle and fowl for *profane* or domestic use. It is called חולין, or [of] profane [slaughtering], to distinguish it from the slaughtering of holy sacrifices, קדשים, which were treated of in זבחים and מנחות, the two preceding Treatises of this series of the Mishna. In the first chapter is treated of, the persons qualified, the instruments to be used, the mode and place of slaughtering. In the following chapters the סימנים, or signs [so called, because they indicate the limits of the place on the throat of the animal where it is to be cut] are described, and the cases mentioned which render the animal or bird טרפה [Terefá], or unlawful to be used as food. The characteristic marks are then indicated by which the [legally] clean fowl, fish, and locusts, may be distinguished from the unclean. The remainder of the Treatise contains laws relative to an animal fœtus; it treats of the prohibition of slaughtering an animal and its young on the same day (Lev. xxii. 28); of the precept of covering the blood of wild animals and fowl (ibid. xvii. 13); of the גיד הנשה, or "sinew which shrank" (Gen. xxxii. 32); of the prohibition of eating flesh boiled in milk (Exod. xxiii. 19, xxxvii. 26, and Deut. xiv. 21); and contains the Rabbinical explanations of the quoted texts, of the sacerdotal oblations from slaughtered animals, and from the wool of the first shearing; and in the last chapter are mentioned laws relative to the obligation of setting the parent bird at liberty when taken with her young from their nest. Some other laws not immediately connected with the subject of this Mishna are incidentally mentioned.

CHAPTER I.

§ 1. All persons are qualified to slaughter [animals allowed to be eaten], and what has been properly slaughtered by them may be lawfully eaten. Deaf and dumb, or demented persons, or minors, are, however, excepted from this rule, because they are liable to make mistakes in slaughtering. That which was slaughtered by a heathen must be considered as Nebelah,[1] and like that pollutes the person who carries it.[2] When the slaughtering was done by night [i. e., in the dark], or by a blind person, it is Cashér.[3] If a person slaughtered on the Sabbath or on the Day of Atonement, although he has by that act forfeited his life, yet what he has slaughtered is Cashér.

§ 2. When a person had cut the throat [of an animal] with a hand sickle,[4] a sharp flint stone, or with a reed, it is Cashér. All[5] may slaughter, at any time, and with any instrument, excepting a reaping hook, a saw, the [sharp] teeth [of animals fixed in the maxillary bone], or with the finger nail,[6] because the [first mentioned three] do not cut, but strangle [and tear]. When a person slaughtered an animal with a reaping hook, having teeth or notches, with the first or down stroke or cut only,[7] it is unfit for use according to Beth-Shammai, but Beth Hillel hold it to be Cashér; but if the teeth of the reaping hook had been ground away [so as to give it a sharp and even edge] it is the same as a knife.

§ 3. Should a person have to cut through the great or top ring of the trachea or windpipe, that but the width of a thread of the whole circumference of the ring remained [on the upper part], the animal

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[1] That is, an animal which died of itself, and of which it is prohibited to eat.

[2] See Treatise Kelim, chap. I. § 2.

[3] By this is indicated that which is *fit* to eat, or rather, what may be lawfully eaten. As we shall have frequent occasion to mention this word, we shall, to avoid periphrase, retain this Hebrew term, as also the terms Nebelah and Terefá, explained above.

[4] An instrument, one side of which is sharp and the other notched.

[5] That is, even an Israelite who was guilty of many transgressions of the law, excepting if he were guilty of idolatry or the public profanation of the Sabbath.

[6] Whilst attached to the person.

[7] That is, without the second or returning cut, consequently he does not lacerate.

so killed is Cashér. R. José bar Jehudah saith, "It is Cashér when the greatest part of this breadth remained."[8]

§ 4. An animal which was slaughtered by being cut at either side of the throat is Cashér, but if the neck of a bird brought as a sacrifice was wrung off[9] sideways, it is thereby rendered an unfit sacrifice. If an animal was cut from the neck downwards,[10] it becomes unlawful for use, but a bird whose neck was thus wrung is a valid sacrifice. An animal which was cut below the throat is Cashér, but the wringing off of birds' heads from below the throat render them unfit sacrifices, because the whole region of the neck is appropriate for the wringing off of the head [of birds], and the whole region of the throat for slaughtering [animals], therefore whatever [in respect to cutting] renders an animal Cashér, must render a bird thus treated an unfit sacrifice, and the same in the reverse case.

§ 5. That which makes turtle-doves proper sacrifices,[11] renders young pigeons improper ones, and whilst these are valid as young pigeons, they cannot be used as sacrifices of turtle-doves. When the neck feathers of either kind begin to shine and to turn yellow, they are unfit sacrifices.[12]

§ 6. That which constitutes a [red] heifer a proper sacrifice, invalidates the calf [whose neck was to be broken[13]], and also the reverse.[14] That which does not disqualify priests[15] [to minister in the Temple] disqualifies Levites, and the reverse. That which is [legally] clean in earthenware vessels,[16] renders other vessels unclean,

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[8] Towards the head, even if the ring had not been cut throughout the whole of its circumference.

[9] Lev. i. 15.

[10] That is, if the incision was made on the top of the neck, through the vertebra, before the knife reached the gullet and windpipe.

[11] Viz., their age.

[12] The young pigeons, because they are then too old, and the turtle-doves, because they are yet too young.

[13] As an expiation for uncertain murder. (See Deut. xxi.)

[14] That is, the red heifer must have its throat cut in the prescribed form, but the calf must have its neck broken or struck off.

[15] Viz., age. For priests are not disqualified to minister in the temple but on account of having contracted a corporeal blemish. This does not disqualify Levites, but their age disqualifies them, for when they have attained the age of fifty they are no longer to be employed in the active service of the Temple. (See Numbers viii. 25.)

[16] Viz., when any creeping or unclean thing had touched the external surface of an earthenware vessel it does not contract pollution, but other vessels do contract it under the mentioned circumstance.

and the reverse takes place in other kinds of vessels.[17] That which is considered [legally] clean in a wooden vessel[18] is unclean in one of metal, and the reverse. The degree of ripeness which subjects bitter almonds to tithe, does not yet subject sweet almonds to the same;[19] and when the latter become subject, the bitter ones are already free from the obligation of tithe.[20]

§ 7. An infusion of water on grape lees which has not yet fermented, may not be bought for the money of second tithe,[21] and renders a bath, however, unfit [for legal cleansing];[22] but when it has fermented it may be purchased for the money of second tithe, and its admixture does not render a bath unfit.[23] Brothers who, after sharing the inheritance from their parents, have entered into partnership, are not bound to pay the tithe of cattle while they are liable to the Kalbon,[24] but whilst they are liable to the payment of cattle-tithe they are not subject to the Kalbon. While the right of sale is vested in the father [who may during the minority of his daughter sell her as a handmaid] no fine can be imposed,[25] and when damages can be legally claimed the right of sale ceases. Whilst the right of refusal is in force[26] Chalitzah does not take place,[27] and when that ceremony

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[17] Should any thing unclean have entered the cavity of a vessel without touching it in any part, an earthen vessel is unclean, but any other kind of vessel remains clean.

[18] Wooden utensils do not contract pollution when level, but they do when they are hollowed out, though yet in an unfinished state. Metal vessels, however, contract pollution in a finished state only, whether they are hollow or level.

[19] Because they are not yet edible.

[20] Because they are only subject to the payment of tithe while they are edible, which is when they are small and not full grown.

[21] Because it is only water. (See Treatise Maaser Sheni, chap. II. § 5.)

[22] When a quantity of three lugs and upward of it had been mixed with the waters of a bath not containing forty seahs.

[23] Because it is considered as wine, and does not otherwise render a bath unfit except when it discolors the water.

[24] That is, the agio, or premium paid to a money changer for the accommodation of receiving half-shekels, wherewith to pay the annual contribution for the offerings of the temple. (See Treatise Shekalim, chap. I. §§ 6 and 7.)

[25] Upon a person who violated or seduced her. (See Treatise Ketuboth, chap. III. § 8, note [11].)

[26] This relates to a female, who, in her minority, had been betrothed by her mother and brothers, and, on becoming nubile, refuses to ratify the engagement they entered into for her. (See Treatise Yebamoth, chaps. I. and II.)

[27] That is, a widow need not wait to remarry under the mentioned circum-

is performed the right of refusal is no longer applicable. When the cornet is sounded [28] no Habdallah is said, and when that is said the cornet is not sounded. When a festival happens on the eve of the Sabbath the cornet is sounded, but the Habdallah is not said. If on the day after the Sabbath, it is said, but the cornet is not sounded. What is the form of the [prayer] Habdallah? [Blessed art thou, &c.] "who makest a distinction between holy and holy;" but according to R. Dosa, "who makest a distinction between the greater and minor degrees of holiness."

CHAPTER II.

§ 1. When one of the pipes[1] has been cut through in killing fowl, and both[2] in killing cattle, they are Cashér;[3] also when the greatest part of these had been cut through. R. Jehudah saith, "It

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stances till her brother-in-law has received Chalitzah from her, for she can make use of her right of refusal.

[28] On the eves of the Sabbath and festivals, when the cornet was thrice sounded, as mentioned in Treatise Succah, chap. V. § 5.

[1] That is, of the first, or windpipe.

[2] The trachea or windpipe, and the œsophagus or gullet.

[3] This is only when it has thus happened without premeditation, for it is necessary to commence the act of slaughtering with the intention of cutting through both tubes. For the elucidation of the following part of the Mishna, it is necessary to observe, that, according to tradition, five things are to be avoided in killing cattle or fowl, as they would render them Pasool, i. e. improper and unlawful to be used as food. The five mentioned invalidating causes are:—

שהייה or *delay*. As when a person cuts a little of the throat of the animal, then stops and cuts again, and continues in the same manner till the act of killing is completed.

דרסה or *pressure*, i. e. when the cutting was effected by pressure only, without passing the knife to and fro on the animal's throat, or cutting off the head or tubes by a single stroke, using the knife like a hatchet or sword.

חלדה or *concealment*, i. e. when the knife was covered with any thing; for instance, if it was covered or hidden by the wool of the animal, or by a cloth, or that it was passed between the tubes, and the killing completed by cutting the tubes either upward or downward.

הגרמה or *deviation*. When the cutting has been beyond the bounds or limits on the throat of the animal, and it was made either above or below these limits hereafter to be indicated.

עקור or *tearing*. When the tubes of any of them had been forcibly torn away before the act of killing was completed. (For more detailed particulars see Talmud, Treatise Cholin, p. 9, and Maimonides, chap. iii. of Hilchoth Shechitah, in vol. ii. of Yad Hachazakah.)

is necessary that in killing fowl the veins at the side of the throat should also be cut through." If but one half [of the trachea] is cut through in fowl, and one and a half [i. e. the trachea, and half of the œsophagus] in cattle, it is unfit; but if the greater part of one tube is cut through in fowl, and the greater part of the two in cattle, it is Cashér.

§ 2. If a person cut off two heads of animals or fowl at once, it is Cashér; also if only the greater part of both tubes was cut through in each. When two persons take hold of a knife whilst killing, even if one held it at the top of the blade and the other at the bottom [or handle], it is Cashér.

§ 3. If he hewed or chopped off the head at one blow, it is Pasool.[4] If, when killing, he had accidentally cut off the whole head, it is Cashér, if the knife extended the width of a neck [beyond the place cut]. When a person in killing cut off two heads at once: if the knife extends the width of one neck only beyond the places cut, it is Cashér.[5] This is, however, only in case the knife had been passed down the throat of the animal only, without drawing it back, or that the second or back cut was only made without the down [or first] cut; but if the knife in cutting was drawn to and fro, if it exceeded in the least the width of the throat of the animals, even if it was as small as a penknive or lancet, it is Cashér. Should a knife happen to drop accidentally on the throat of an animal, although it was duly slaughtered in consequence, yet it is Pasool; for it is said [Deut. xxvii. 7], "Thou shalt sacrifice, and thou shalt eat," viz. that only which *thou* [thyself] sacrificest, that shalt thou eat. If whilst in the act of slaughtering, the knife should drop from a person's hand, and he picked it up; or his clothes, and he picked them up;[6] or, that having become exhausted by the exertion of setting or sharpening the knife, it was necessary that another person should finish the cutting; if the delay thereby occasioned was such, that during its duration another similar animal might have been slaughtered, it is Pasool. R. Simeon said, "When a knife could have been examined[7] during the interval."

§ 4. When the œsophagus had been duly cut through, but the trachea was torn off, or the reverse; or, that he cut through one of

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[4] On account of דרסה "forcible pressure;" see the preceding note.

[5] Consequently, the knife must be at least thrice the size of the throat.

[6] Which caused delay [שייהה].

[7] To ascertain if it were fit for killing, and without notches.

the tubes, and then waited till the animal died; or, that he covered or hid the knife by placing it under the second tube,[8] and cut it off; it must, according to R. Jishbab, be considered as Nebelah [i. e. as an animal which died of itself],[9] but, according to R. Akivah, as Terefá [i. e. an animal torn by wild beasts].[10] R. Jishbab gave the following rule from the authority of R. Joshua, "Every animal which, owing to a defect in slaughtering, has become Pasool [or unfit for use], must be considered as Nebelah; but when the slaughtering was duly performed, and it became Pasool through another cause,[11] it must be considered as Terefá." Then R. Akivah assented to him [R. Jishbab].

§ 5. When a domestic or wild animal or fowl was slaughtered, and no blood followed [the incision], it is Cashér, and may be eaten with unwashed hands;[12] because the absence of blood rendered it unsusceptible of contracting and conveying pollution. R. Simeon saith, "The slaughtering rendered it susceptible."

§ 6. If an animal is slaughtered when it is dangerously ill, according to Rabbon Simeon ben Gamaliel, "It is sufficient [to render it Cashér] when it can move or struggle with its fore and hind legs." R. Eleazar saith, "It suffices if the blood spirted after its throat was cut." R. Simeon teaches, "That even when a person slaughtered such an animal at night, and found in the morning the walls [of the slaughter-house] covered with blood, it is Cashér, agreeable to R. Eleazar's opinion." But the sages hold it to be Cashér only, "when the animal struggled with either his fore or hind leg, or that it wagged its tail;" this applies to small as well as to large cattle. When a small cattle [a sheep or goat, &c.] is slaughtered [when dangerously ill], and extends its fore-leg, but does not draw it back, it is Pasool, because it only indicates the last throe of parting life. This is to be understood only in case the animal is supposed to be in imminent danger; but when it is considered sound, although it should not have exhibited any of the mentioned symptoms [after being killed], it is Cashér.

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[8] The œsophagus or gullet.

[9] Which pollutes the person who carries it. (See Treatise Kelim.)

[10] Which does not communicate legal uncleanliness to the person who carries it.

[11] Through any of the causes mentioned in the next chapter.

[12] Blood is one of the seven fluids, mentioned in Treatise Yadaim, which render a substance susceptible of contracting legal pollution. (For a complete understanding of this Mishna see Treatises Zebachim and Yadaim.)

§ 7. When a person had slaughtered an animal for a heathen, it is Cashér; but R. Eleazar decides it to be Pasool. R. Eleazar teaches, "That if he slaughtered it with the intention that the heathen should only eat the caul of the liver of the animal,[13] it is Pasool, because the tacit intention of the heathen is to use it for idolatrous purposes." R. Joshua argued against this, and demonstrated his opinion by a syllogism from minor to major [קל וחומר],[14] "If where the intention renders Pasool, as in the case of consecrated things,[15] the matter is determined by the intention of the acting priest, does it not follow that in the present instance, which relates to non-consecrated things,[16] and where the intention does not render them Pasool, it should be determined by the intention of him that slaughtered?"[17]

§ 8. When a person slaughtered an animal in or to the name of mountains, hills, seas, rivers, or deserts, it is Pasool.[18] When one of two persons holding the same knife had killed the animal with the mentioned idolatrous intention, and the other with a lawful intention, the animal so killed is Pasool.

§ 9. It is not lawful to slaughter [so that the blood should run] into the sea, or in a river, or to place the animal within a vessel;[19] but it is lawful to slaughter in a wet ditch,[20] or within a utensil on board a ship.[21] It is not permitted to slaughter in any pit at all, but it is lawful to make a pit within the house, that the blood may collect therein; but this is not permitted in the public street, not to countenance the custom of heretics.[22]

§ 10. When a person slaughters an animal [for profane use out of

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[13] Or any small part, if of the size of an olive only.

[14] Here the syllogism is from major to minor.

[15] Holy sacrifices. (See Treatise Zebachim).

[16] Animals slaughtered for private use.

[17] And not that of the heathen; consequently, that animal should be Cashér. The Halacha or decision is according to R. Joshua's inference.

[18] To eat, but not to derive benefit from it; but if he said, "I slaughter it to the demon or spirit of the mountain," &c., it is not only Pasool, but prohibited to derive benefit from it.

[19] To collect the blood. This and the following were ordered to avoid the idolatrous practices which were anciently in vogue; when, for instance, they let the blood run into the sea, to propitiate Neptune or some other fabulous deity.

[20] When the water is turbid.

[21] Although the blood should run thence into the sea, for it is evidently done not to soil the ship.

[22] This was also one of the ancient idolatrous practises to collect the blood in a pit.

the temple] as a burnt offering or [other] sacrifice, or as a doubtful sin offering, or as a Paschal sacrifice, or as a thanksgiving offering, it is Pasool; but R. Simeon considers it Cashér. When two persons take hold of a knife in slaughtering, and one of them did so with the intention of slaughtering it as one of the mentioned sacrifices, and the other with a lawful intention, it is Pasool. When it was slaughtered as a sin-offering, or as a certain trespass-offering, or as a first-born, or as tithe [of animals], or as an exchanged sacrifice, it is Cashér; for this is the rule, "If the animal was slaughtered as a sacrifice that can be offered by voluntary vow, it is Pasool; but if it was slaughtered as any other sacrifice, it is Cashér."

CHAPTER III.

§ 1. The following internal wounds or defects render animals Terefá:[1] when the œsophagus is perforated;[2] when the trachea is split or torn across in its width; when the membrane or thin skin [which is innermost and nearest] to the brain is perforated; when the heart is perforated till within the cavity of its two ventricles; when the spine is broken, and the spinal chord is severed; when the liver is wanting, and not a vestige thereof remains; when there is a perforation through the two membranes covering the lungs; when the lungs are deficient [of any of their lobes]; R. Simeon saith, "[An animal is only then Terefá] when the lungs are perforated within the bronchial tubes;" when there is a hole in the maw, or in the gall-bladder, or in the thin or small intestines; when there is a hole in the interior or lower stomach, or that the greatest part of the external fleshy part thereof is torn; R. Jehudah saith, "If a hand-breadth is torn off in large cattle [oxen or cows, it is Terefá], but in a small one [a calf, &c.] when the greatest part thereof is torn; when there is a perforation in the omasum [many plies] and the magnus venter

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[1] The word Terefá [טרפה], in its ordinary acceptation, signifies an animal or bird which was struck down, or mortally wounded, by another beast or bird of prey. The flesh of an animal so struck it is not lawful to eat, as appears from Exodus xxii. 31. When an animal has a wound, of which it is held that it cannot survive, whether it is owing to accidental falls, wounds, deficient organisation, or to any other cause, it is considered Terefá, or prohibited to eat thereof, as of the flesh of a *torn* animal.

[2] Through both its coats, the outer one of which is red, and the inner one white.

or upper stomach, beyond the place where they are connected;[3] when the animal fell off a roof; when the greater part of its ribs are fractured, or when it had been hugged by a wolf [with its fore-paws or claws]; R. Jehudah saith, "The hug of a wolf causes small cattle only to become Terefá, but large ones only become so when a lion had struck its claws or fangs in them." Small birds are Terefá when a sparrow-hawk had struck its talons in them; and large birds [as fowls, geese, &c.] when they were struck by a [falcon, eagle, or other] large bird of prey. This is the rule. "When an animal under similar circumstances cannot survive, it is Terefá."

§ 2. The following cases are Cashér: when the trachea is perforated or split. Of what size may the deficient part be? According to Rabbon Simeon ben Gamaliel, "As large as an [Italian] asser."[4] When the bones of the skull are wounded, but the interior skin of the brain is uninjured; when there is a perforation in the heart, but not quite through to within the ventricles; when the vertebræ of the spine are broken, but the spinal chord was not severed; when the liver is deficient, but a small piece thereof of the size of an olive remained; when the omasum and the upper stomach are pierced one within the other; when the animal is deficient of milt or kidneys, or nether jaw, or matrix, or when through fear [from the appearance of any of the phenomena of nature] caused by the hand of God, its

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[3] For the proper understanding of this Mishna, it is necessary to know, that the ox, and other ruminants, have four stomachs. In the first two they ruminate, or chew the cud of the grass, &c., they have but slightly macerated in eating. After undergoing there a second maceration, it passes thence by a narrow opening into the third and fourth stomachs, where it is finally converted into nourishment. The first two of these [for the second stomach is only a prolongation of the first] are called, in Hebrew, בית הבריסות; the third stomach is called, in Hebrew, מסס [the ה prefixed being only the denoting ה, or article; but, according to Buxtorf, it is derived from the Latin name, *omasum*]; the fourth is called קיבה or maw, where the food is farther prepared for being absorbed by the lacteals and converted into chyle, for which purpose it passes through the דקין or small intestines. The following are the Hebrew, English, and Latin names of the four stomachs:—the first "stomach," or "paunch," "magnus venter rumen," or "penula;" the second stomach is called "the honey-comb bag," "bonnet," or "king's-hood," in English, and "reticulum arsineum," in Latin; these first two are here called בית הכוסות; the third is called the "many plus," or, rather, "many plies,"—"omasum," in Latin, and מסס in Hebrew; the fourth is called the "red. abomasum faliscus ventriculus intestinalis," and קיבה in Hebrew.

[4] Vide Treatise Kedushin, chap I., § 1, and note [4].

lungs had become dessicated. R. Meir considers also an animal whose skin was stripped off as Cashér, but the other sages consider it Pasool.

§ 3. The following defects render fowl Terefá: when the œsophagus is perforated; when the trachea is torn off; when a weasel bit it on the head, in a place where it may render it Terefá [viz. near the brain]; when the stomach or thin intestines are perforated; when it had fallen into the fire; when its viscera[5] had become scorched, if they had turned yellow it is Terefá, but when they remained red it is Cashér;[6] when a person had trodden on it, or knocked it against a wall, or that it was trodden upon by cattle, and it struggles and lives twenty-four hours after the accident [and was then slaughtered], it is Cashér.

§ 4. The following cases are Cashér in fowl: when the trachea is perforated or split; when it was bitten by a weasel on its head, in a place where it does not render it Terefá; when the crop is perforated, and, according to Ribi, even when that organ is entirely deficient; when the intestines protruded from the body without being perforated; when its wings or legs are broken, or when its large feathers are plucked off; R. Jehudah saith, "It is Pasool when stripped of its plumage."

§ 5. When an animal became ill through plethora of blood, or suffered from a bad state of bile, or viscosity of mucus, or that it had fed on the plant rosebay [or the oleander], or that it had swallowed fowl's dung, or drank noxious water, it is Cashér; but when it had swallowed poison,[7] or had been bitten by a venomous serpent, although it is not prohibited as Terefá, yet it is forbidden to be eaten, on account of the danger it may cause to the persons eating thereof.

§ 6. The signs by which the clean animals, domestic and wild, may be distinguished [from the unclean and prohibited ones] are mentioned in the Holy Law, but not those of fowl. The sages have, however, established, "That every [predaceous] bird, which strikes its talons into its prey, is of the unclean: every bird which has an additional claw,[8] a crop, and of which the internal coat of the stomach

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[5] Namely, the heart, liver, and crop, which are naturally of a red color.

[6] In aquatic birds when the mentioned parts have turned red from the accident, because they are yellow in a sound state.

[7] Namely, a poison which affects man, but is innoxious to cattle.

[8] Namely, that which is placed behind, and above the front ones.

may be readily peeled off, is of the clean species." R. Eleazar ben Zadok saith, "Every bird which [when placed on a perch] divides its toes equally, is an unclean one."

§ 7. Of locusts, all the species are clean which have four feet, four wings, and four leaping legs, and whose wings cover the greatest part of its body; R. Jehudah saith, "Only then when they are called by the name חגב."[9] Of fishes, are clean, those furnished with fins and scales; R. Jehudah saith, "When they have at least two scales and one fin." Scales are attached to the body of the fish, and fins are the organs by which it moves through the water.

CHAPTER IV.

§ 1. When an animal labours under difficult parturition, and the fœtus put forth its fore-leg, and withdrew it again within the womb, this fœtus may be eaten [by killing the dam]; but if it once protruded its head, though it withdrew it again, it is to be considered as born. Any part of an animal fœtus which had been cut off may be lawfully eaten, but if aught of the spleen or kidneys of an animal had been cut off, it is prohibited to eat these pieces. The rule is, "Whatever belongs to the body of the animal itself, it is prohibited to eat, when cut off while the animal was yet alive, but what does not belong to its own body, it is lawful to eat."

§ 2. When an animal labours under difficult parturition with its firstborn young, the fœtus may be cut from the womb piecemeal,[1] and the pieces cast to the dogs;[2] but if the greater part of the body had protruded, it must be buried, and the dam is not further subject to the law of firstborn.[3]

§ 3. When the fœtus of an animal lies dead within its womb, and the shepherd [or herd] put his hand inside and touched it, he is clean, whether the animal was of a clean or of an unclean species; but R. José, the Galilean, holds that he is clean when the animal was of a clean, and defiled when the animal was of an impure species.

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[9] This Hebrew word signifies "locust."

[1] To save the life of the dam.

[2] Because it is considered unborn. For a firstborn, being consecrated, may not be cast to the dogs when it dies, but it must be buried.

[3] That is, any young one she may have hereafter is not to be considered as a firstborn "that openeth the womb." (See Exod. xiii. 1.)

A human fœtus which died within the womb, and was touched by the midwife placing her hand inside, the midwife is unclean for seven days, but the woman [the mother of the fœtus] is clean, till after the fœtus comes from her.

§ 4. When an animal labours under difficult parturition, and the fœtus protruded its fore-leg, and it was cut off, and then the dam was slaughtered, the flesh of the young animal is clean. If the dam had been slaughtered first, and then the protruding limb of the fœtus was cut of, the flesh of the fœtus is to be considered [unclean], like that which had touched the body of an animal that had died of itself [Nebelah]. Such is the dictum of R. Meir; but the sages hold, "That it must be considered as if a properly slaughtered animal, but which, owing to some internal blemish, had become Terefá [had touched it]. For even as we find that a properly slaughtered animal which became Terefá, becomes clean [i. e. is not considered as Nebelah] by the said slaughtering, thus also ought the slaughtering of the dam to render the protruding limb of the fœtus clean." But R. Meir replied to them, "Not so, for when the slaughtering causes an animal to be considered as clean, it is in so far only as is applicable to the body of the animal itself: but can it render clean the limb of the fœtus, which does not form part of the body of the dam? Whence is it deduced, that the slaughtering renders an animal found to be Terefá clean? [It ought rather to be supposed, that since] it is prohibited to eat of an unclean animal, which is also the case with one found to be Terefá: that, therefore, even as an unclean animal does not become clean by שחיטה [or proper slaughtering according to law], thus also the act of שחיטה ought not to render an animal clean, which was ascertained to be Terefá: yet this is not the case, because, what is affirmed in respect to the unclean animal, which at no time was a fit object for שחיטה, cannot be predicated of the clean animal [which though Terefá], *had* a period when it was fit for שחיטה. Consequently you cannot hence deduce the proof you have brought. Why does an animal, which is Terefá from the womb, become clean by שחיטה? It is because you cannot apply that which is affirmed in respect to unclean animals, to which שחיטה is inapplicable, to clean animals, to which שחיטה does apply. Thus also, an animal born alive at the end of eight months, does not become clean by the act of שחיטה, because that act is not lawfully applicable to similar animals, under similar circumstances."[4]

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[4] That is, שחיטה does not apply to an animal fœtus of eight months.

§ 5. When a person slaughters an animal, and found within it a live or dead fœtus eight months old, or a dead fœtus of nine months, he may tear it up,[5] and let the blood run off. If a live fœtus of nine months is found, it must be slaughtered, and the penalty of the law would be incurred, if its dam was slaughtered on the same day with it.[6] Such is the dictum of R. Meir; but the sages say, "The act of שחיטה to the dam, renders also the fœtus lawful." According to R. Simeon Sazuree "[The slaughtering of the dam is so efficient, that] even if such an animal should have grown to the age of eight years, and ploughs in the fields, it does not require שחיטה for itself." If an animal had been torn up [i. e. been killed without proper שחיטה], and a live fœtus nine months old found therein, it will be necessary to slaughter the fœtus by itself, because the dam had not been [properly] slaughtered.

§ 6. An animal whose legs were cut off below the knee is Cashér, but not when they were cut off above the knee, also when the junction of the sinews[7] is interrupted.[8] When the bone of the lower part of the leg is broken: if the fractured part is covered by the flesh in the larger proportion [of its thickness and circumference], the animal becomes lawful for use by being properly slaughtered, but not when the fractured part was not so covered.

§ 7. When an animal was killed, and a placenta [i. e. the secundines or afterbirth] found therein, this latter may be eaten,[9] if a person should not loath to eat it; but it does not contract pollution as a thing edible, or as a Nebelah. [If the dam had died of itself] but when it is considered edible by any person, it becomes liable to contract pollution as an edible, but not the pollution of Nebelah. When a placenta had partly protruded from the womb, it becomes unlawful to be eaten. It is the sign [or proof] of a child in woman, and of a young in an animal.[10] A placenta that had been cast prematurely by an animal which is with young for the first time, may be

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[5] That is, it does not require שחיטה. [6] See Lev. xxii. 28.

[7] Hebrew צומת הגידין, meaning the place where the three sinews or muscles, the large one and the two smaller ones at each side thereof, are joined, which is a little above the ancle. There are sixteen such sinews in the leg of fowl.

[8] By being cut asunder.

[9] That is, it is not considered as eating a part of a yet living animal, אבר מן החי, which is prohibited.

[10] The rule on which all the regulations of this Mishna turn is, that there is never a placenta without a fœtus.

cast to the dogs,[11] and in the case of consecrated sacrifices it must be buried;[12] but it is not lawful to bury it in a cross road, or hang it up in a tree,[13] because these are heathen practices.

CHAPTER V.

§ 1. The prohibition against slaughtering an animal and its young on the same day [Lev. xxii. 28], is obligatory in the Holy Land, and out of it, during and after the existence of the Temple, with respect to animals slaughtered for profane use [i. e. to eat them], and to those slaughtered as consecrated sacrifices, as follows. When a person slaughtered an animal and its young [on the same day] without the temple-court [not as holy sacrifices, but] as animals slaughtered for profane use: though both animals are Cashér, yet in slaughtering the second, he incurred the penalty of the forty stripes.[1] Should he have slaughtered them outside the temple-court as holy sacrifices, he has incurred the penalty of utter excision [כרת] for the slaughter of the first. Both animals are Pasool, and he has moreover incurred the penalty of forty stripes for the slaughtering of each animal. Should he have slaughtered them as חולין [i. e. for profane or ordinary use] within the temple-court, both animals are Pasool; and for the slaughter of the second, he incurred the penalty of forty stripes. If both were consecrated sacrifices, and were slaughtered within the temple-court, the animal first slaughtered is a valid sacrifice, and the person who slaughtered it has not incurred any penalty for so doing; but he incurred the penalty of the forty stripes for the slaughter of the second animal, and that animal is unfit for sacrifice.

§ 2. If the animal first slaughtered was חולין, and the other a consecrated sacrifice, and they were slaughtered outside the temple-court, the first animal is Cashér, and the person who slaughtered it has not incurred any penalty; but for the slaughter of the second he incurred that of the forty stripes, and the animal is an unfit sacrifice. If the first animal was consecrated, and the second חולין, and both were slaughtered outside the temple-court, he who slaughtered the

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[11] See Note [2], p. 333 of this Treatise.

[12] For the reason stated Note [10], page 335; and any young animal born from one which was consecrated for sacrifice, becomes also consecrated.

[13] These were the superstitious practices of the heathens, who fancied that by those means they could prevent abortions among their cattle.

[1] For transgressing the law (Lev. xxii. 28).

first incurred the penalty of utter excision, and the animal is an unfit sacrifice; the second animal is Cashér, and for the slaughtering of each, the penalty of the forty stripes has been incurred. If the first animal was חולין, and the second a consecrated sacrifice, and they were slaughtered inside the temple-court, both are Pasool; and for the slaughter of the second, the penalty of forty stripes has been incurred. If the first animal was consecrated, and the second חולין, and they were slaughtered within the temple-court, the first animal is Cashér, and the person who slaughtered it has not incurred any penalty but that of the forty stripes for the slaughter of the second, and that animal is Pasool. If both animals were חולין, and one of them was slaughtered outside, and the second inside the temple-court, the first animal is Cashér, and he who slaughtered it has not incurred any penalty but that of the forty stripes for the slaughter of the second, and that animal is Pasool. If both animals were consecrated sacrifices, and one of them was slaughtered outside, and the second inside the temple-court, the person who slaughtered them has incurred the penalty of excision for the slaughter of the first [both animals are Pasool], and that of the forty stripes for the slaughter of each. If both animals were חולין, and one of them was slaughtered within, and the second without the temple-court, the first animal is Pasool, and he who slaughtered them has not incurred any penalty but that of the forty stripes for the slaughter of the second, but that animal is Cashér. If both were consecrated animals, and one of them was slaughtered inside, and the other outside of the temple-court, the first animal is Cashér, and the person who slaughtered it has not incurred any penalty but that of the forty stripes for the slaughter of the second, and that animal is an unfit sacrifice.

§ 3. When one of the animals was found to be Terefá, or that one had been slaughtered for idolaters, or that one is a cow of a sin-offering, or an ox condemned to lapidation,[2] or a calf whose neck was to be struck off,[3] R. Simeon absolves [the person who slaughtered the second animal on the same day] from any penalty; but the sages hold "That he incurred that [of the forty stripes]."[4] When one of the animals becomes Nebelah by being improperly slaughtered; or when it was killed by a knife being thrust up its nostrils; or that the trachea and œsophagus were forcibly torn off, the law against slaughtering an animal and its young on the same day is not

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[2] See Exodus xxi. 29.

[3] Deut. xxi.

[4] For transgressing the precept, Lev. xxii. 28.

applicable. When a cow and its calf were bought by two persons, one buying the cow and the other the calf, the first buyer has a right to slaughter his purchase first; but if the other buyer anticipated him in slaughtering his, he has acquired his right.[5] Should a person have slaughtered a cow and her two calves on the same day, he has incurred a penalty of eighty stripes; but if he slaughtered the two calves first, and then the cow, he has only incurred [one] penalty of forty stripes. If he slaughtered [on the same day] a cow and its young, and the calf of that young cow, eighty stripes shall be inflicted on him. If he slaughtered [on the same day] a cow, then the calf of its young, and lastly the young itself, the forty stripes shall be inflicted on him. Symmachus,[6] in the name of R. Meir, saith, "eighty [stripes]." At four periods of the year a seller of cattle is bound to inform the buyer that he had sold the dam or her young on the same day for the purpose of being slaughtered, viz. on the day preceding the last day of the Feast of Tabernacles, on those preceding the first day of Passover, the Feast of Weeks, and of the New Year; and according to R. José the Galilean, also on the day preceding the Day of Atonement in Galilee. R. Jehudah saith, "When is he bound to give that information? Only if there should not be a day's interval between the sale of one of the animals and that of the other; but if there was such an interval, the mentioned information is not required from the seller." Yet R. Jehudah admits, "That in case he sold the dam to a bridegroom, and the young to his bride, he is bound to inform them thereof, because it is to be supposed that both animals will be slaughtered on the same day."

§ 4. On the mentioned four periods [or days], a butcher can be compelled to slaughter cattle against his will.[7] Even if he had an ox worth a thousand dinars, and there was a purchaser for only a single dinar's worth of meat, he will be compelled to slaughter it. Hence, should the animal die meanwhile [naturally], the loss[8] falls on the purchaser; but it is not so at other times, for when the animal then dies of itself, the loss falls on the seller [or butcher].

§ 5. The expression of the law, "One day," when treating of the prohibition of slaughtering an animal and its young in one [and the same] day, is to be understood, that the day and the night which

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[5] And the first buyer must wait till the next day to slaughter his.

[6] Original, סומכוס.

[7] This treats of a case where a butcher received deposit-money, and agreed to furnish meat.

[8] Of the deposit-money.

preceded it are to be reckoned together [as forming one day]. For thus was it expounded by R. Simeon ben Zomah, "The term 'one day' is used in the History of the Cosmogony, and also in the precept relative to the prohibition of slaughtering an animal and its young [on the same day], to teach us, that even as in the first instance, the night and the day which followed it made 'one day,'[9] thus also must it be understood in the second or present instance."

CHAPTER VI.

§ 1. The precept of covering the blood [of wild animals and fowl] [Lev. xvii. 19], is obligatory in and out of the Holy Land, during and after the existence of the Temple, in animals slaughtered for חולין, but not in those which are consecrated sacrifices. It applies solely to wild animals and fowl, whether these were domesticated, or were caught in a wild state. Also to the כוי,[1] because it is doubtful [whether that animal is to be classed among the domestic or wild animals]. It may therefore not be slaughtered on the festival, but if it was slaughtered [thereon], its blood need not be covered [on that day].

§ 2. When an animal was slaughtered and found to be Terefá, or if it was slaughtered for idolatrous purposes, or as חולין within, or as consecrated offerings without the temple-court; or a bird or wild animal condemned to lapidation,[2] R. Meir considers it obligatory [to cover the blood], but the sages hold, "It is not obligatory to do so." When it became Nebelah by being slaughtered, or when it was killed by a knife being thrust up its nostrils, or that the trachea and œsophagus were forcibly torn off, it is not obligatory to cover the blood.

§ 3. When a deaf and dumb person, an idiot, or a minor, have slaughtered in the presence of other [i. e. qualified] persons, the latter are bound to cover the blood, but not if the above [disqualified persons] had slaughtered by themselves; and thus also in respect to the precept of not slaughtering an animal and its young [on the same day]: if any of these [unqualified persons] had slaughtered

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[9] See Genesis i. 5. [1] The offspring of a he-goat and a hind. (De Pomis.)

[2] This does not refer to the precept Exod. xxi. 29, like the above, but to another case, viz. when an unnatural crime had been committed with any animal, when the animal, as well as the person who committed the crime, is to be put to death, as ordered in Lev. xx. 15 and 16.

one of the animals in the presence of [qualified] persons, the other animal may not be slaughtered after them [on the same day]. If they had slaughtered one of the animals by themselves, R. Meir permits to slaughter the other after them [on the same day], but the sages decide it to be prohibited ; they admit, however, " That a person who did so slaughter it, is not liable to the punishment of the forty stripes."

§ 4. Should a person slaughter as many as a hundred wild animals or fowl in one place, one covering will suffice for all of them. If many fowl are killed in one place, one covering suffices for all. If many wild animals and fowl were killed in one place, one covering suffices for both kinds. R. Jehudah saith, " When a person slaughtered the wild animal, he must cover its blood first, and then slaughter the fowl." When a person had slaughtered [a wild animal or fowl], and omitted to cover the blood, if another person had observed that omission, the latter is bound to cover the blood. When the blood, after it was duly covered, became uncovered, it is not necessary to cover it again ; but if the wind had covered it [and it was afterwards uncovered], it is required to be again covered.

§ 5. When the blood was mixed with water, if the blood is still apparent, the obligation of covering it remains in force. If mixed with [red] wine, [that wine] must be considered as if it were water. If it was mixed with the blood[4] of another domestic or wild animal, that blood must be considered as water ; but R. Jehudah observes, " One kind of blood does not neutralise another kind."

§ 6. The blood which spirts [from the throat of an animal on its being cut, and bespatters a wall, &c.] and that on the slaughtering knife, it is obligatory to cover. R. Jehudah saith, " When is this the case ? When there is no other blood but that ; but when there is other blood besides, it is not required to do so."

§ 7. With what substances is it lawful to cover the blood, and with what may it not be covered ? It is lawful to cover with pulverised manure, with fine sand, with mortar, with potsherds, with bricks, or with the earthenware cover [or bung] of a barrel, viz. when these substances had been pulverised, but nôt with unpulverised manure, coarse sand, or brick, or earthenware covering, which had not been pounded. Nor may it be covered by merely placing a vessel over it. Rabbon Simeon ben Gamaliel laid it down as a rule, " That

[4] Produced by venesection from the wild animal.

it is lawful to cover with any substance which would sustain vegetation, but not with substances unfit for the growth of plants."

CHAPTER VII.

§ 1. The precept concerning the prohibition of eating the "sinew which shrank" [גיד הנשה] is obligatory in and out of the Holy Land, during and after the existence of the Temple, in animals slaughtered for profane use [חולין], and in respect also to consecrated sacrifices, and applies to wild and domestic animals, and to both the right and left thighs of the animal; it does not apply to fowl, since these have no "hollow in the thigh." It applies to a fœtus in embryo,[1] and its suet [חלב] it is permitted to use.[2] According to R. Meir, "The assertion of butchers in respect to their having removed the גיד הנשה is not to be relied on;" but the sages hold, "That they may be relied on in this respect, and in that of the removal of חלב, or suet."

§ 2. It is lawful to send to a non-Israelite a thigh having the גיד הנשה yet within it,[3] because its existence is easily ascertained. In removing the גיד הנשה, the whole sinew must be carefully cut out. R. Jehudah saith, "It suffices if enough was removed so as to fulfil the precept."[4]

§ 3. A person who eats the quantity of an olive in size of a גיד הנשה, incurs the penalty of forty stripes. Should a person have eaten the whole of that sinew, and it was under the mentioned size, he has nevertheless incurred the same penalty. If a person eat the size of an olive of the sinews of each hip, eighty stripes are to be inflicted on him; but according to R. Jehudah, forty stripes only.

§ 4. If a hip was boiled with the גיד הנשה within it, if that sinew was of sufficient size to impart a flavor to the hip, this latter may not be used. How is this to be calculated? In the same proportion as meat boiled with turnips.[5]

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[1] Found full grown in the matrix of the dam, and which it was desired to use as food.

[2] Commentators of this Mishna differ whether this permission to use the suet applies to that on the גיד הנשה, or to that of the fœtus.

[3] It need not be apprehended that he might sell it to an Israelite, who, knowing that it originally came from an Israelite, might suppose that the sinew had been removed.

[4] It suffices to cut out the upper part, without cutting into the flesh to remove the smaller filaments.

[5] That is, the Guid Anashé must be considered as if it were meat, and the hip

§ 5. When the Guid Anashé was boiled with other sinews, if that sinew can be recognised [it must be removed, and] the other sinews are prohibited, if it could have imparted a flavor to them.[6] But when it cannot be recognised, all the sinews are prohibited. The broth [or liquid in which it is boiled] may not be used if the Guid Anashé imparted a flavor to it;[7] and it is even so if a piece of Nebelah, or of a fish prohibited to be eaten, should have been boiled with other pieces of meat or fish allowed to be eaten: if the first mentioned pieces can be recognised, they are to be removed, and if they could have imparted a flavor to the other pieces, the latter may not be used. If they could not be recognised, all the pieces are prohibited; and thus in respect to the broth, which may not be used, if the flavor of the prohibited pieces could have been imparted to it.

§ 6. The prohibition of the Guid Anashé applies to clean animals, and not to unclean ones. R. Jehudah saith, "It must be observed also in respect to unclean animals;" for he argued thus, "The Guid Anashé was prohibited since the time of the sons of Jacob [i. e. *before* the promulgation of the law], when it was not yet prohibited to use unclean animals as food."[8] The sages replied, "This precept was first promulgated at Sinai, but it was written [incidentally] in its place."[9]

CHAPTER VIII.

§ 1. It is prohibited to boil any kind of flesh[1] in milk, except that of locusts[2] and fish; neither may meat and cheese be brought to

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as the same quantity of turnips if the sinew was of a size that the same quantity of meat would impart a flavour to the turnips, the hip may not be used. The Halacha is not according to this Mishna, for it is held that the Guid Anashé cannot communicate any flavor whatever.

[6] See the last sentence of the preceding note.

[7] That is, if it was of sufficient size to impart a flavor to the proportion of liquid in which it was boiled.

[8] And as there was thus no distinction between clean and unclean animals, the prohibition must apply to both kinds.

[9] Namely, in the relation of the event of the wrestling of Jacob with the angel (Gen. xxxii. 33), the *occasion* from which this precept arose is mentioned.

[1] This term includes the flesh of cattle and venison, and also of fowl; the prohibition of the two first is derived from the Law, that of the last-mentioned is of Rabbinical origin.

[2] Some species of locusts are even at this day used as a common article of food

table together, except locusts and fish. A person who vowed not to eat meat, may eat locusts and fish. Fowl and cheese may, according to Beth Shammai, be brought to table together, but may not be eaten together; but, according to Beth Hillel, they may neither be brought to table nor be eaten together. R. José saith, "This is one of the cases in which Beth Shammai decide in a less rigid manner than Beth Hillel."[3] What kind of table is here alluded to? The table on which the person is eating; but on the table on which food is prepared [a dresser], both kinds may without apprehension be placed near to each other.

§ 2. Meat and cheese may be wrapped up together in one cloth, if they do not touch each other [i. e. are placed in contact]. Rabbon Simeon ben Gamaliel saith, "Two guests [at an inn or ordinary] may without apprehension eat at the same table, one of them meat, and the other cheese."

§ 3. When a drop of milk fell upon a piece of meat [in a pan], all the meat therein is prohibited if it could have communicated its flavor to the meat;[4] but if the contents of the pot had been immediately stirred together [after the milk fell into it]: if it imparted its flavor to the whole, the contents of the pot are prohibited. The udder [of a cow or goat, &c.] must be torn, and the milk be pressed out of it; but if it had not been torn, the person who eats it has not transgressed; the heart must also be torn and the blood pressed out. If it had not been torn, the person who eats it thus has not transgressed;[5] and he who has fowl and cheese brought to table together has not transgressed the negative commandment.

§ 4. It is prohibited to boil [in milk] or to derive any benefit from the flesh of a clean animal which was boiled in milk of a clean animal, but it is permitted to boil and to reap advantage of flesh of a clean animal boiled in the milk of an unclean one, or, of the flesh of an unclean animal boiled in the milk of a clean one. R. Akivah saith,

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in some countries of the east. The species here particularly alluded to is of the cucullated or hooded species, and is called "Locusta minor flavicans *Chagab* edulis," i. e. the lesser yellowish locust, or edible *Chagab*.—(Scheuchzer, Physica Sacra.)

[3] The contrary is generally the case, Beth Hillel being mostly less rigid in their decisions than Beth Shammai.

[4] This is the case when the piece of meat does not exceed sixty times the size or proportion of the drop of milk.

[5] In the Talmud, Treatise כריתות, this is explained as limited to a fowl's heart only.

"Wild animals and fowl are not specified in the law [as subject to this prohibition]; for it is said, 'Thou shalt not boil a kid in its mother's milk,' but this precept was mentioned three times,[6] to include wild animals, fowl, and unclean animals. R. José the Galilean saith, "It is said [Deut. xiv. 21], 'Thou shalt not eat of any thing that dieth of itself' [Nebelah], and it is added immediately, 'Thou shalt not boil a kid in its mother's milk.' Consequently, those animals only which are prohibited as *Nebelah* may not be boiled in milk, and as it might be supposed that since a fowl may become prohibited as *Nebelah*, it would therefore be prohibited to boil it in milk, the Scripture uses the expression, 'in its *mother's milk*,' to except fowl, to which that expression cannot apply."[7]

§ 5. It is prohibited to use the curdled milk in the maw of an animal slaughtered by a non-Israelite, which is *Nebelah*. When a person put milk in the interior membrane of the maw[8] of a Cashér killed animal;[9] if the milk can impart a flavor to it, it is prohibited. The milk in the maw of a Cashér animal, which sucked from one that is Terefá, is prohibited; but the milk of a Terefá, which sucked from a Cashér animal, may be used, because the milk remains gathered [enclosed] in the intestines.[10]

§ 6. Several laws are more rigid in respect to the prohibition of eating suet [חלב] than they are in that against eating blood, and some, again, which relate to this latter prohibition, are more severe than those in respect to the first mentioned. More severe in respect to suet, inasmuch as a trespass [מעילה] may be thereby incurred, as also the guilt of having brought an abominable [i. e. unfit] sacrifice [פגול], and having eaten of what remained[11] [נותר], and became unclean, which is not the case in respect to the blood. Some laws are more severe as regards blood, since this prohibition applies to the blood of domestic and wild animals, and also to fowl, whether they are of a clean or unclean species, but that against eating suet applies to clean animals exclusively.

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[6] Exodus xxiii. 19; ibid. xxxiv. 26; and Deut. xiv. 21.

[7] Hebrew, "which have no mother's milk." The Halacha or Rabbinical decision is, however, according to R. Akivah.

[8] Which is flesh.

[9] To convert it into runnet to make cheese.

[10] And does not mix with the juices, &c., of the animal that is Terefá.

[11] That is, if eaten or kept on the third day since the animal was sacrificed. See Leviticus xix. 5, 6, &c.)

CHAPTER IX.

§ 1. The skin [of a slaughtered animal],[1] the broth, the meat dissolved by boiling, that which adheres to the bottom of a saucepan,[2] the fragments of meat adhering to the skin[3] when it is removed from the animal, bones [containing marrow], sinews, horns and hoofs, are computed together to form [with the edible matter or flesh in them] the quantity of the size of an egg, when they are liable to contract and communicate pollution to other edibles, but not the pollution of Nebelah. Thus also, if a person slaughters an unclean animal for a heathen, it pollutes edibles while it struggles, but it does not communicate the pollution of a dead body till life is extinct, or, if its head had been quite chopped off. There are consequently more cases in which edibles contract pollution than there are in respect to pollution by Nebelah. R. Jehudah saith, in reference to the fragments of meat adhering to the skin, "If any of these, when computed together, are of the size of an olive in any one place, guilt is thereby incurred."[4]

§ 2. In the following instances the skin is to be considered as flesh :—human skin, that of the domestic swine,[5] and, according to R. José, also that of wild swine, the tender skin on the hump of a young camel,[6] and that of the head of a young calf, the skin [between] the split hoofs, that over the matrix, and that of an animal fœtus in embryo, also that under the tail, and those of the ferret, the chameleon, the lizard, and the snail. R. Jehudah saith, "That of a lizard must be considered like a weasel ['s skin]."[7] If any of these had been tanned or converted into leather, or that they had been sufficiently trodden [in the process of converting the skin into leather], they are clean, excepting human skin. R. Jochanan ben Nouri saith, "The eight creeping things have skins."[8]

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[1] Containing a piece of meat of less size than that of an egg.

[2] Or, as Maimonides explains the original expression, קיפה, the spice put in to render the meat palatable.

[3] The original word אלל, is variously explained. (See זבחים, chap. III. § 4, and the Commentary of Bartenora.) The rendering we have given is corroborated by the end of this Mishna, and appears the most plausible.

[4] Pollution is communicated by Nebelah when of the size of an olive only.

[5] Because it is soft and edible.

[6] Which has not yet carried any burden.

[7] Whose skin does not contract pollution.

[8] And their skin, not being deemed the same as their flesh, does not contract pollution, even as that of the weasel.

§ 3. When a person removes the skin of a domestic or wild animal, whether clean or unclean,[9] large or small, in order to cover himself therewith,[10] pollution is contracted and communicated when as much skin is removed as can be taken hold of,[11] and if to make a bottle of skin.[12] until the skin over the breast is removed.[13] If the skinning was commenced from the legs, the whole is considered as connecting, and subject to contract and communicate pollution. The skin covering the neck is not considered as connecting by R. Jochanan ben Nouri, but the sages do so consider it until the whole skin is removed.

§ 4. When there is the size of an olive of flesh on a skin in one spot, any person who touches the filaments proceeding therefrom, or the hairs on the skin which are opposite [and touch the said flesh], is unclean. If there were two pieces of flesh of the size of two half olives each, it pollutes by being carried, but not by the mere touching it. Such is the dictum of R. Ishmael, but R. Akivah holds "That they do not pollute either by being carried or touched," but he admits, "That if the size of two half olives were stuck on a skewer and moved, it is unclean." Why, then, does [R. Akivah], in respect to the skin, hold it to be clean? Because the skin prevents their contact.

§ 5. Whoever touches a marrow-bone of a dead body,[14] or of a consecrated sacrifice,[15] whether the said bones are open or closed, is unclean. Whoever touches a marrow-bone of an animal that is Nebelah, or of creeping animals, is clean when the bone is closed, but if it is open ever so little, pollution is contracted by contact with it. Whence is it proved that [the marrow-bone of a Nebelah] does also pollute the person carrying it? Because it is said [Lev. xi. 24, 25], "Whoever toucheth [the carcase]," and "Whoever beareth aught of the carcase," &c., which proves that whatever communicates by

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[9] That is, whether the animal and he that skins it is clean, or that the animal is unclean, and he that skins it is clean.

[10] Or, to spread it over a bed or table.

[11] Viz., two handbreaths.

[12] For this purpose the skin is not cut open the whole length of the animal, but is cut round, from the neck to the tail, so as to form a bag, which in eastern countries is used to put liquids in.

[13] Because the breast is the most difficult part of the operation.

[14] When a person touches or carries any part of a dead body, should it even be so small as a grain, he contracts pollution in consequence.

[15] Which remained after the third day [נותר and פיגול] These render the person who touches them unclean. (See Treatise Yadaim.)

being touched, does also communicate it by being carried, and that which cannot communicate pollution by contact, cannot communicate it by being carried.

§ 6. The egg of a creeping animal, in which the young animal is already developed, is clean, but when it has the smallest perforation it renders unclean. In respect to a mouse which is yet half flesh and half earth,[16] if the flesh is touched it renders unclean, but not if only the earth thereof had been touched. R. Jehudah saith, "Whoever touches the earth which immediately adjoins the fleshy part is also unclean."

§ 7. Members,[17] or pieces of flesh which had been forcibly torn off a [live] animal,[18] but which are yet pendant to it, are subject to contract and communicate pollution like other edibles, while they remain thus pendant in their place,[19] but require the susceptibility of contracting pollution to be communicated to them,[20] before they contract it. When the animal was slaughtered they may contract pollution by its blood, according to R. Meir, but R. Simeon saith, "They do not thereby contract it." When the animal dies of itself, it requires the susceptibility of contracting pollution to be communicated to it before it is unclean.[21] The [pendulous] member does, however, pollute as a member taken off an animal while yet alive, but not as Nebelah. Such is the dictum of R. Meir; but R. Simeon saith, "That member or the pieces of flesh [above mentioned] are clean."

§ 8. A limb or piece of flesh torn from a human body, but yet pendant to it, is clean [if the person is alive],[22] but should he die, the flesh is clean, but the limb pollutes as a limb severed from a living being, but not as a part of a dead body. Such is the dictum of R. Meir; but R. Simeon holds the said limb to be clean.

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[16] It was anciently supposed that some species of mice were produced on dunghills, &c., from the soil, so that one part of the body was animated before the other.

[17] That is, pieces consisting of flesh, bone, and sinews, are thus called.

[18] In a manner that it will never heal nor grow again.

[19] That is, it is not unclean of itself, as Nebelah, but it can contract pollution by coming in contact with a שרץ, or creeping animal.

[20] By being moistened.

[21] Because, as it was torn off while the animal was alive, it cannot be considered as Nebelah.

[22] Because the expression of the text is, "When a man *dieth* within a tent," &c. (Numbers xix. 15.)

CHAPTER X.

§ 1. The law concerning the [right] shoulder, the two cheeks, and maw, due as oblation to the priest, is obligatory in and out of the Holy Land, during and after the existence of the Temple,[1] and applies to animals for ordinary use [חולין], but not to those used as consecrated sacrifices. For it might have been concluded [thus], If in respect to animals slaughtered for חולין, to which the precept of giving the breast and foreleg [to the priest] does not apply, it is nevertheless obligatory to give the above mentioned oblations: it would follow, *a fortiori*, that these oblations ought also to be given in respect to consecrated sacrifices which *are* subject to the gift of the breast and foreleg; but it is written [Lev. vii. 34], "[For the wave-breast, and fore-leg, &c.] and have given them to Aaron the priest and his sons by a statute for ever." Hence we are taught, that the priest obtains only what is specified in the text [viz., the breast, &c.].

§ 2. All animals, for sacrifice, which had contracted a permanent [i.e. incurable] blemish before they were consecrated, and were ransomed, are subject to the laws concerning first-born and [the other sacerdotal] oblations, and may, like animals used for חולין, be shorn and used for labor. The young and milk they produce after they were ransomed are also lawful for use, and no guilt is incurred if they were slaughtered outside [the temple]. They do not render an animal substituted for them a valid sacrifice, but they must be ransomed after their death. First-born of animals, and those given as tithe, are excepted. If they had been consecrated before they had contracted the blemish, or that a transitory blemish preceded the consecration, and they had subsequently contracted a permanent one, they are free, after they are ransomed, from the laws relating to first-born and other oblations; but they may not, like animals used for חולין, be shorn nor used to labor with. The young and milk they produce may not be used, even after they were ransomed, and guilt is incurred by any person who slaughtered them outside [of the temple]. They also render an animal substituted for them a valid sacrifice, and must be buried when they die.

§ 3. If a blemished first-born animal was sold by a priest to an

[1] This commandment is not at present considered obligatory out of the Holy Land.

Israelite, and had become mingled with a hundred other animals; if these were slaughtered by a hundred persons, the firstborn which is among them releases them all [of the obligation of paying the sacerdotal dues]. If they were all slaughtered by one person, one only of these animals is free. A person who slaughters for a priest, or for a non-Israelite, is not bound to pay the oblations; if he had the animals in partnership with one of these, he must mark them.[2] If a priest sold an animal [to an Israelite], reserving the oblations, the Israelite is not bound to give them. Should one [Israelite] say to another, "Sell me the entrails of [this] cow," and there is yet of the oblations among it [viz. the maw], he [the buyer], must give it himself to the priest, and [the seller] need not allow him any deduction from the purchase-money on that account; but if the animal was bought by weight, the buyer must pay the sacerdotal dues, and may deduct it from the purchase-money.

§ 4. If a proselyte had a cow, which he slaughtered before he had embraced Judaism, he is free from the payment of the oblations, but not if the slaughtering took place after his conversion. In a doubtful case[3] he is free, because the *onus probandi* lies with him who sets up the claim. What are the limits of the shoulder?[4] From the bent of the knee until the hip-bone: this is also the case in respect to the shoulder mentioned in the sacrifice of the Nazarite, as also in respect to the hind-leg down to the hough [in peace-offerings]. The [limits of the] leg are, according to R. Jehudah, from the hip-joint until that of the thigh. The [limits of the] two cheeks are from their joints till the top ring of the trachea.

CHAPTER XI.

§ 1. The precept of giving to the priest the firstling of the fleece [Deut. xviii. 4] is obligatory in, and out of the Holy Land,[1] during, and after the existence of the Temple, and applies to animals for profane use [חולין], but not to consecrated sacrifices. The precept

[2] That every one may distinctly perceive that the priest or non-Israelite have a share in the animals.

[3] Namely, whether the slaughtering had taken place previous to, or after the conversion.

[4] Namely, that of the right side fore-quarter, which must be given to the priest.

[1] This precept is not considered obligatory, at present, out of the Holy Land.

concerning the oblation of the shoulder, two cheeks, and maw, is more rigid than that which relates to the firstling of the fleece, in as much as the first-mentioned applies both to cattle and flock, but the latter is limited to sheep, and only when there are a number of them.

§ 2. What is considered "a number"? According to Beth Shammai, two sheep come under this category; since we find it written [Isaiah vii. 21], "A man shall nourish a young cow and two sheep;" but Beth Hillel say, "[At least] five, for it is also written [1 Sam. xxv. 18], 'Five sheep ready dressed.'"[2] R. Dosa ben Arkinar saith, "When the fleece of each of the five sheep amounts to the [minimum] weight of one half maneh, the obligation of paying the firstling of the wool is incurred;" but the sages hold, "That it is incurred as soon as five sheep are shorn, whatever the weight of their fleece may be." What quantity must be given to the priest? The weight of five selahim, in Judea, which are equal to ten selahim in Galilee, of white [i.e. clean], but not of dirty wool, and in sufficient quantity as to make therewith the smallest [sacerdotal] garment, for it is said [Deut. xviii. 5], "Shalt thou give unto him," viz. a sufficient gift [which has *some* value]. If he could not give it to the priest before it was dyed, he is not bound to give it at all.[3] If the owner of the wool had only bleached, but not yet dyed it, he is bound to give it. If any person buys from a heathen the fleece of sheep [yet to be shorn], he is not bound to pay to the priest the firstling of the fleece. If one Israelite bought it of another, if the seller reserved some of the wool to himself, he is bound to pay this oblation; but if he sold it without such reservation, this obligation is incumbent on the buyer. If he [the seller] had two kinds of wool, gray and white, if he sold the gray but not the white wool, or of rams but not of ewes,[4] each party must pay the oblation to the priest.

CHAPTER XII.

§ 1. The precept of letting the parent bird, found in a nest, fly away [Deut. xxii. 6] is obligatory, in, and out of the Holy Land, during, and after the existence of the Temple, and applies to non-

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[2] In this, as in the preceding, the proof is derived from the expression צאן (flock) in the quoted texts.

[3] Because he made it his own by the labor he bestowed on it.

[4] Because the wool of white sheep is considered superior to that of gray, and that of ewes as softer and more valuable than that of rams.

consecrated birds [חולין], but not to those which are consecrated sacrifices.[1] The law is more rigid in respect to the obligation of covering the blood, than in that of letting the parent bird fly away, in as much as the first-mentioned precept applies to wild animals and fowl, whether ready at hand or not, and the latter applies to fowl only, and to those which are not ready at hand. By this latter expression is understood such as geese or fowls, which make their nest in an open field or orchard; but those which nestled within the house, or in respect to Herodian doves,[2] this obligation does not apply, nor to unclean birds,[3] nor unclean birds incubating the eggs of clean birds, nor these latter hatching the eggs of unclean birds. R. Eleazar holds, "That it is obligatory to set at liberty a cock partridge[4] found in a nest," but the sages do not consider this necessary.

§ 2. If the dam was fluttering about the nest, if she touched it with her wings, it is obligatory to let her fly away, but not when her wings do not touch it; if there was but one young bird, or one egg, it is nevertheless obligatory to let the dam fly away, because the Scripture uses the term קן, "nest," i.e. any nest. When some of the young birds are already on the wing, or that the eggs are addled, the precept does not apply, for it is written, "And the dam sitting upon the young birds, or upon the eggs." Even as the young birds are supposed in the text to be live ones, thus also must the eggs be fit for incubation [and to produce life], from which term addled eggs are [of course] excluded; and even as the eggs [to complete the process of incubation] require the care of the dam, thus also must the young bird mentioned in the text yet require the nurture of the dam, consequently those birds which are already able to fly are excluded. Should a person have let the dam fly away, and she returns constantly to the nest, even four or five times [or oftener], he is bound to let her fly away, for it is said, "Thou shalt surely let the dam go," &c. When a person says, "I take the dam, and set the young birds free," he must let the dam go also, since it is written, "Thou shalt surely

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[1] For instance, if a person consecrated a bird for the service of the Temple, and that bird flew away, and was afterwards found brooding in a nest, and recognised.

[2] Original יוני הדרסיאות; some explain it as in our text, and derive that name from King Herod, who used to be partial to that breed; others derive it from a town called הרדס; but all agree that a kind of doves is meant which are bred in the dovecote, and are quite domesticated.

[3] This is learned from the expression צפור.

[4] Because [it is said] that bird incubates as well as the hen.

let the dam go." If he takes the young birds first, and then puts them again in the nest, and the dam returns, he is no longer bound to let her fly away again.

§ 3. When a person has taken the dam and the young birds from the nest, he shall, according to R. Jchudah, suffer the punishment of the stripes, but he is not bound to let the dam fly away; but the sages hold, "That he is bound to let her fly, but is free of the punishment." For this is the rule, "For the transgression of a negative precept, which may be rectified by an act, no punishment is to be inflicted when that rectifying act has been done."

§ 4. The dam and the young birds are not to be taken from a nest, even to [serve as a sacrifice] to cleanse the leper [Lev. xiv]. If the Holy Law attaches so much importance to this precept, which is so easy to be observed, and though scarcely demanding the sacrifice of the value of an issar,[5] does nevertheless use the expression, "That it may be well with thee, and that thy days may be prolonged," how much more precious must be the reward attached to the observance of other [more difficult] precepts of the Holy Law.

XLIII. TREATISE BECHOROTH.

[Relates to the firstborn of human beings, and of animals. Laws founded on Exod. xiii. 12, 13; and Num. xviii. 15—18.]

XLIV. TREATISE ERACHIN,

VALUATIONS.

[Contains laws relating to objects consecrated to Divine worship, founded on Lev. xxvii. 2; and also, to vows, founded on Lev. xxvii. 28.]

XLV. TREATISE TAMURAH,

SUBSTITUTION.

[Contains laws relating to consecrated animals that have had others substituted in their stead, founded on Lev. xxiv. 10 and 33.]

XLVI. TREATISE KERITOTH,

EXCISIONS.

[Relates to offences which, if wantonly committed, are punished by excision, but which, if inadvertently committed, entail the obligation to bring sin or trespass offerings.]

[5] A small coin.

XLVII. TREATISE MEHILAH,

TRESPASS.

[Contains laws relating to objects that have been consecrated and converted to profane uses, founded on Num. v. 6—8.]

XLVIII. TREATISE TAMID,

CONTINUAL OFFERINGS.

[Contains laws relating to the daily sacrifices, founded on Exod. xxxiv. 38—42; and on Num. xxviii. 3.]

XLIX. TREATISE MIDDOTH,

MEASUREMENTS.

[Alludes to the size and dimensions of the Temple, and its various parts; related by an eye-witness, R. Eleazar ben Jacob, assisted by Abbah Saul.]

L. TREATISE KANIM.

[Relates to birds for sacrifices.]

Which closes Seder Kedoshim.

סדר טהרות

LEGAL PURIFICATIONS; CONTAINS

LI. TREATISE KELIM.

[Laws relating to things liable to contract and to communicate uncleanness, founded on Lev. xi. 11—32; and Num. xix. 14, and xxxi. 20.]

LXII. TREATISE OHOLOTH.

[Contains laws relating to uncleanness arising from a corpse, founded on Num. xix. 14.]

LIII. TREATISE NEGAIM.

[Contains laws relating to uncleanness arising from leprosy, and other contagious diseases, founded on Lev. xiii. and xiv.]

LIV. TREATISE PARAH.

[Has laws relating to the red heifer, founded on Num. xix.]

LV. TREATISE TAHAROTH.

[Relates to minor impurities, according to their various degrees.]

LVI. TREATISE MIKVAOTH.

[Contains laws that relate to diving baths for the cleansing of persons and utensils, founded on Num. xxxi. 23.]

LVII. TREATISE NIDDAH.

[Contains precepts regulating the conduct of, and intercourse with, women, during their menses, after child-birth, and generally at their periods of separation [נדה] and uncleanness, founded on Lev. xii. 1—6; xxv. 19—31.]

LVIII. TREATISE MAKSHEERIN.

[Relates to the laws and rules of purification, founded on Lev. xi. 36—38.]

LIX. TREATISE ZABIM.

[Has laws relating to fluxes, founded on Lev. xv.]

LX. TREATISE TEBUL YOM.

[Relates to purifications by ablution on the day the uncleanness has been contracted. Laws founded on Lev. xvii. 15, and xxii. 6, 7.]

LXI. TREATISE YADAIM

Contains regulations for purifying the hands from uncleanness. These regulations rest entirely on the authority of tradition, or the oral law, as no commandment of the Pentateuch is quoted or adduced in their support by the Mishna. In order to eat bread baked of Cholin,[1] the hands must undergo ablution up to the wrist; the quantity of water to be used for this purpose must not be less than a quarter of a lug.[2] In order to eat Teroomah[3] of any kind, the hands, in addition to this first ablution, must undergo another one: hence they are respectively called the first and second ablution: the last named does not absolutely require a quarter of a lug of water.

The third chapter of the Treatise points out certain objects that render the hands [legally] unclean. The last chapter treats of various subjects, and also mentions some objections advanced by the Sadducees, and how the Tanaim [sages of the Mishna] met these objections.

CHAPTER I.

§ 1. A quarter lug of water is poured on [the hands of] one person, also on [the hands of] two[4] [persons], half a lug on three or four, a whole lug and upwards on five, or ten, or even one hundred [persons].[5] R. José saith, "Provided always, there be not less for the last [person using the water] than a quarter [of a lug]." They

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[1] Non-consecrated food, used by any man.

[2] The lug is equal to five eggs, a quarter-lug equals one and a quarter egg.

[3] Consecrated food, used by the priests and their household.

[4] This, according to Maimonides, only applied to second ablutions.

[5] This hyperbole is used to express any indefinite number.

may add[6] [water] for the second [ablution], but they must not add [any] for the first.

§ 2. From all [kinds of] vessels they may pour on the hands, even from vessels [made] of cow-dung, or vessels of stone, or of earth. But they must not pour [water] on the hands out of the sides [fragments] of a vessel, or the bottom of a tub, or the bung of a cask: nor [must a man] give to his neighbour [water] out of the hollow of his [own] hand, because they must not draw, or consecrate, or sprinkle the water of purification,[7] or pour [water] on the hands, except [it be] in a vessel. [In cases of uncleanness arising from the tent][8] they cannot preserve [therefrom], by means of a close cover, [any utensils] except [whole] vessels [only]; nor can they preserve [the contents of] an earthen vessel, [into which a dead reptile has fallen, from contracting uncleanness], except [closed] utensils [only].[9]

§ 3. Water which [on account of its bad smell] is unfit for [domestic] animals to drink, is unfit [for ablution, if contained] in [any kind of] vessels; but on the ground [in a ditch], it is fit [for ablution, by immersing the hands therein]. Should ink, gum, or vitriol black drop into it [the water], so that its colour be changed, it becomes unfit [for ablution]. If it has been used for any purpose, or he [a man] has soaked his bread therein, it [the water] becomes unfit [for ablution]. Simeon, the Temanite, said, "[What!] even though he intended to soak something in one vessel and it dropped into another? [No] it continues fit [for ablution]."

§ 4. Has he rinsed vessels therein [the water], or [used it] to rinse out measures, it becomes unfit; but if he rinsed therein vessels which already had been rinsed [clean], or new ones, [the water so used] continues fit [for ablution]. R. José prohibits it[s use] in [the case of] new vessels.

§ 5. Water in which the baker has dipped rolls is unfit [for ablution], but has he only dipped his hands therein it continues fit. All are qualified to pour water on [other persons'] hands, even the deaf and dumb, idiot or minor. A man may hold a cask between his knees to pour the water [over his hands]. An ape may pour water

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[6] Should the vessel not contain water sufficient for a proper ablution.

[7] Vide Numbers xix. 13, and Treatise Parah [the red heifer].

[8] Vide Numbers xix. 14, and Treatise Oholoth [of tents].

[9] Food or beverage of any kind, contained in a vessel into which a dead reptile has fallen, becomes unclean; but close vessels which may be therein contained do not become unclean.

on [a person's] hands. R. José declares these two [last-mentioned modes of pouring water on the hands as legally] improper.

CHAPTER II.

§ 1. If he [a person] has poured [water] on one hand at one gush, his hand is clean; [if] on both hands at one gush, R. Meir declares them [still to continue] unclean, until he has poured [water] out of a quarter-lug [vessel] upon them. Should a loaf of heave[1] fall [on the water], it [remains] clean. R. José [however] declares it unclean.

§ 2. Has he poured out his first [ablution] in one place, and his second in another place, should a loaf of heave fall on the first, it [becomes] unclean, if on the second, it [remains] clean. Has he poured out his first and second [ablutions] into one place, and a loaf of heave fall thereon, it [becomes] unclean. Should he pour out his first [ablution], and find on his hand a splinter or small stone, his hands continue unclean, as the second water only purifies the first [water] on the hand.[2] R. Simeon ben Gamaliel saith, "Whatsoever is a production of the water, [and is found on the hand after the first ablution, does not prevent the hand from being] clean."

§ 3. The hands become unclean or clean up to the wrist. How [is this meant]? Should he pour the first [ablution] up to the wrist, and the second [ablution] above the wrist, and some of the water runs back into the hand, that [continues] clean. Should he have poured [both] the first and the second [ablutions] above the wrist, and some of the water runs back into the hand, that [becomes] unclean. Should he have poured the first [ablution] over one hand, and then the second [ablution] over both hands together, they are unclean. Should he have poured the first [ablution] over both hands, and then the second [ablution] over one hand only, his hand is clean. Should he have poured [water] on one hand, and then rubbed it against its fellow [his other hand], it [the hand on which he poured the water] becomes unclean; [but if he rubbed it] against

[1] Or, should a man touch a loaf of heave after having performed his ablutions, but before his hands are quite dry.

[2] As the splinter or stone intervenes between his skin and the water, it annuls the effect of the ablution, as the portion of his hand which it covers remains untouched by the water, and therefore unclean. And should he even perform the second ablution for heave, his hand still continues unclean, the second water having the effect only of purifying the first water, but not the hand.

his head, or against the wall, it remains clean. They may [at once] pour [water] over [the hands of] four or five [persons] alongside of each other or above each other, provided always, they be careful that the water comes on [every part of] their hands.

§ 4. [Should he be] in doubt whether it [the water] has been used for any purpose or not; [should he be] in doubt whether he had the prescribed quantity or not; [or should he be] in doubt whether [the water was legally] unclean or clean: in all these [cases of] doubt he is clean, because they [the sages] decided, "That whenever it is questionable whether the hands are unclean, [or] impart uncleanness, or are clean, [they are to be considered as] clean." R. José [however] held "[That whenever it is questionable whether the hands are] clean, they are [to be considered as] unclean." How [is this rule to be applied]? Were his hands clean, and two unclean loaves before him, should he be in doubt whether he touched them or not, [or,] his hands being unclean, and two clean loaves before him, he is in doubt whether he touched them or not, [or,] one of his hands being unclean and the other clean, there were before him two clean loaves, one of which he touched, should he be in doubt whether he touched it with the unclean [hand], or with the clean [one], [or,] his hands being clean, and there were before him two loaves, one unclean and the other clean, one of which he touched, should he be in doubt whether he touched the unclean or the clean [loaf, or,] his hands being one unclean and one clean, and before him two loaves, one unclean and one clean, both of which he touched, should he be in doubt [whether he touched] the unclean [loaf] with the unclean [hand], and the clean [loaf] with the clean [hand], or the clean [loaf] with the unclean [hand], and the unclean [loaf] with the clean [hand]: in all [these cases] the hands remain as they were, and the loaves as they were.[3]

CHAPTER III.

§ 1. He who introduces his hands into a house that is smitten[1] [with leprosy, thereby causes] his hands [to become unclean in a] primary[2] [degree]. Such is the dictum of R. Akivah; but the sages

[3] What was clean remains so, and what was unclean also remains so.

[1] Vide Leviticus xiv. 33—48.

[2] So as by their touch to render Cholin [common food], unfit for use; to render heave unclean, and what comes into contact therewith unfit for use; to

decide, "[He causes] his hands [to become unclean in a] secondary[3] [degree]." Whatever renders garments unclean[4] at the time of [coming into] contact therewith, causes the hands to become unclean [in a] primary degree. Such is the dictum of R. Akivah; but the sages decide, "[It causes the hands] to become [unclean in a] secondary [degree]." They [the sages, moreover] said to R. Akivah, "When do we ever find [that] the hands [become unclean in a] primary [degree]?" He answered them, "How is it possible that they [the hands] can become [unclean in a] primary [degree] unless the whole body has [previously] become unclean, except in the present instance."[5] Articles of food, and vessels which have become unclean through liquids, cause the hands to become unclean [in a] secondary [degree]. Such is the dictum of R. Joshua; but the sages decide, "That which is become unclean through an Ab Hatoomah[6] makes the hands unclean; [but that which is become] unclean through a Vlad Hatoomah[7] does not make the hands unclean." R. Simeon ben Gamaliel said, "It happened that a woman came before my father, and stated to him, 'My hands got into the empty space of an [unclean] earthen vessel:' he asked her, 'My daughter, from what [cause] did the uncleanness arise?' but I did not hear what she said to him." The sages replied, "The case is clear;[8] that which is become unclean through an Ab Hatoomah makes the hands unclean, [but that which is become unclean] through a Vlad Hatoomah does not make the hands unclean."

§ 2. Whatever disqualifies heave[9] causes the hands to become

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render sacred things and what comes into contact therewith unclean, and whatever touches the last named unfit for use.

[3] Which only renders unfit for use in heave, but renders such sacred things unclean as come in direct contact therewith.

[4] Such as the spittle or discharge of a person having a running issue [menorrhagia].

[5] Because the hands only having been introduced into the house smitten with leprosy, the rest of the body remains clean.

[6] אב הטמאה, the parent stock, or generator of uncleanness; whatever contains the principle of uncleanness in itself, and does not derive it from any other object, but communicates it to whatever comes in contact therewith, as a human corpse, a dead reptile, &c. (Vide Treatises Oholoth, Negaim, and Mikvaoth.)

[7] ולד הטמאה, the offspring or product of uncleanness; whatever does not contain the principle of uncleanness in itself, but has derived or contracted it from some other object. (Vide Treatises Kelim, Taharoth, and Ukzin.)

[8] R. Gamaliel's question as to the nature of the uncleanness supports and confirms our decision.

[9] So that it becomes Cholin and must not be eaten by priests.

[unclean in a] secondary [degree]. One hand makes the other hand unclean. Such is the dictum of R. Joshua; but the sages decide, "That no secondary can make a secondary."[10] R. Joshua [objected and] said to them [the sages], "Are not sacred scriptures secondaries, and [nevertheless they do] make the hands unclean?"[11] [But] they answered him, "The commandments of the [written] law cannot be subjected to conclusions drawn from the dicta of the Sopherim [scribes], nor these dicta to those commandments, nor yet dicta of the Sopherim to others of their dicta."

§ 3. Leather straps of Tephilin, with the Tephilin [attached thereto] make the hands unclean. R. Simeon saith, "The straps of Tephilin do not make the hands unclean."

§ 4. The margin in a book of the Law, at the top and at the bottom, at the beginning and at the end [thereof], makes the hands unclean. R. Josè saith, "[The margin] at the end does not make the hands unclean until the roller is attached to it."

§ 5. A book [of the Law, in] which [the writing] is obliterated, but which still contains eighty-five letters, [a number] equal to the Parasha ויהי בנסוע הארון,[12] makes the hands unclean. Any Megillah[13] which contains eighty-five letters, [a number] equal to the above named Parasha, makes the hands unclean. All sacred scriptures make the hands unclean.[14] The Canticles and Ecclesiastes make the hands unclean. R. Jehudah saith, "Canticles make the hands unclean, but Ecclesiastes is [subject to] a dispute [difference of opinion]." R. José saith, "Ecclesiastes does not make the hands unclean, but the Canticles are [subject to] a dispute." R. Simeon saith, "Ecclesiastes is one of [those observances in which] Beth Shammai [are] less strict, and Beth Hillel more rigid."[15] R. Simeon ben Azai said, "I have it as a tradition from the mouths of seventy-two elders, on the day they inducted R. Elcazar ben Azariah into the president's seat, that Canticles and Ecclesiastes [both] make

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[10] One object unclean in a secondary degree cannot cause another object, with which it comes in contact, to become unclean in the same degree.

[11] One of the eighteen decisions adopted the day Beth Shammai had the majority (Vide Treatise Sabbath, chap. I.) is, that whoever touches the sacred scriptures disqualifies heave until his hands are washed.

[12] Numbers x. 35, 36. The rabbies consider these two verses as forming a distinct book of the Law.

[13] A parchment roll, containing a portion of the sacred scriptures.

[14] So as to disqualify heave. (Vide note [11] of this chapter.)

[15] Contrary to the usual practice of these two great schools.

the hands unclean." R. Akivah said, "Mercy forbid! no man in Israel ever disputed that the Canticles make the hands unclean, as the whole [history of the] world does not [offer an epoch] equal to the day on which the [book] Canticles was given to Israel; for all the Kethoobim [Hagiographers] are holy, but the Canticles are holy of holies. The dispute [in question, therefore,] referred to Ecclesiastes [only]." R. Jochanan ben Joshua, the son of R. Akivah's father-in-law, said, "Even as Ben Azai stated, so was the dispute, and so was [also] the decision."

CHAPTER IV.

§ 1. On that day[1] they divided and decided,[2] "That a trough used to wash the feet [and capable of] containing from two lug to nine kab—which has been split [near the bottom[3]], may become unclean from pressure,"[4] although R. Akivah contended that [such] a trough always remains like what it is named.[5]

§ 2. On the same day they decided, "That all sacrifices which have been brought under an improper designation,[6] are valid, but do not absolve the owners from their obligation,[7] except the paschal sacrifice, and the sin-offering; the paschal sacrifice in due season, and the sin-offering at all times." R. Eleazar saith, "The trespass-offering likewise: the paschal sacrifice in its due season, and the sin or trespass-offering at all times." R. Simeon ben Azai said, "I have it as a tradition from the mouths of seventy-two elders, on the day they inducted R. Eleazar ben Azariah into the president's seat, that all sacrifices [which may be eaten] that have been brought under an improper designation, are valid, but do not absolve the owners of their obligation, except the paschal sacrifice and the sin-offering."

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[1] The day on which R. Eleazar ben Azariah was appointed president of the school at Jabneh (Jamniah).

[2] The ayes and the noes divided, and the majority decided.

[3] So that it cannot contain water sufficient to wash one foot at a time, and is, therefore, no longer a bathing trough.

[4] Should an unclean person sit thereon.

[5] Though unfit for use, it still is a trough, and as such, not liable to become unclean from pressure. (Vide Treatise Kelim, chap. I. § 2.)

[6] If bound to bring a sacrifice of one kind, he designates it as a different kind. (Vide Treatise Sebachim, chap. I. §§ 2, 3.)

[7] He is still bound to bring his sacrifice.

Ben Azai only added the burnt-offering, but the sages did not coincide with him.

§ 3. On the same day they argued: [The land of] Ammon and [of] Moab, how are they [affected] by the Sabbatical year [of agrarian rest]? R. Tarphon decided, "[That Israelites residing in those countries must pay] tithes for the poor;" but R. Eleazar ben Azariah decided, "[They must pay] second tithes."[8] R. Ishmael then said, "Eleazar ben Azariah, it behoves thee to prove thy assertion, for thou enactest a more rigid observance; and whosoever enacts a more rigid observance, with him rests the onus of making good his decision." R. Eleazar ben Azariah replied, "Ishmael, my brother, I have not deviated from the regular order [series] of the years,[9] but my brother Tarphon has deviated therefrom, therefore, the onus probandi rests on him." R. Tarphon [then] replied, "Egypt is out of the land [of Israel; abroad], and Ammon and Moab are out of the land [of Israel; abroad]: even as Egypt [pays] tithe for the poor in the Sabbatical year, so Ammon and Moab [must likewise pay] tithe for the poor during the Sabbatical year." R. Eleazar ben Azariah replied, "Babylon is out of the land [of Israel; abroad], and Ammon and Moab are out of the land [of Israel]: even as Babylon [pays] second tithe during the Sabbatical year, so Ammon and Moab [must likewise pay] second tithe during the Sabbatical year." R. Tarphon [further] replied, "Egypt being near [adjoining to the land of Israel], is subjected to tithe for the poor, in order that the poor in Israel may be thereby supported during the Sabbatical year; so likewise Ammon and Moab, which are near [adjoining the land of Israel], must also be subjected to tithe for the poor, in order that the poor in Israel may be thereby supported during the Sabbatical year." To this R. Eleazar ben Azariah replied, "Thou seekest to increase the money [contributed for the poor], but in truth thou lessest souls; wouldst thou be the cause that heaven should send down neither dew nor rain, as it is said, 'Shall a man defraud God? Yet ye have defrauded me. But ye say, In what have we defrauded thee? In

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[8] The tithe for the poor was Cholin [common food], and might be eaten in any place, whereas the second tithe was consecrated, and could only be eaten in Jerusalem. (Vide Deut. xiv. 22, and Treatise Maasar Sheni.)

[9] It was an established rule that the year in which the tithe was paid to the poor, should be succeeded by a year in which the second tithe was consumed in Jerusalem; and as the sixth year was fixed for payment of tithe to the poor, the seventh year, in all countries not subject to the agrarian rest, entailed the obligation of second tithe.

tithes and heave-offerings.' "[10] R. Joshua then said, "Behold, I will answer for my brother Tarphon, although not according to his mode of argumentation. [The regulation concerning] Egypt is newly established; [whereas that concerning] Babylon is established of old; the subject before us [also relates to a regulation to be] newly established. Let, therefore, [one] new regulation be subjected to conclusions drawn from [another] new regulation; but let not a new regulation be subjected to conclusions drawn from an old established regulation. [Moreover, the regulation concerning] Egypt is established by the elders [of the great Sanhedrin; whereas the regulation concerning] Babylon is established by the prophets [their predecessors]; the subject before us [also relates to a regulation to be] established by elders. Let, therefore, [one] regulation established by elders be subjected to conclusions drawn from [another] regulation established by elders, but let not a regulation by elders be subjected to conclusions drawn from a regulation by prophets." They [the sages] then divided, and [the majority] decided, "That Ammon and Moab must pay tithe for the poor during the Sabbatical year." When R. José ben Dormiskith came to R. Eleazar [ben Hyrcanos], at Lydda, he [R. Eleazar] inquired of him, "What had ye new in the Beth Medrash [College] to-day?" He [R. José] replied, "They divided and decided, that Ammon and Moab must pay tithe for the poor in the Sabbatical year." [On hearing this], R. Eleazar wept, and exclaimed, "The secrets of the Lord are for those who fear him, and his covenant to be made known to them;[11] go forth and tell them, 'Ye need be under no apprehension on account of the decision you have adopted, for I have it as a tradition from the mouth of Rabbon Jochanan ben Zachai, who heard it from his teacher, who heard it from his teacher, even up to the decision of Moses from Sinai, that Ammon and Moab pay tithes to the poor during the Sabbatical year.'"

§ 4. On that day came Judah, an Ammonitish proselyte, and stood before them in the Medrash. He said to them [the sages], "How

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[10] Malachi iii.8.—R. Eleazar ben Azariah assumes that the tithe spoken of by the prophet cannot be tithe for the poor, which is Cholin, or profane; but that it must be second tithe, because that is consecrated like the heave, in connexion with which it is mentioned.

[11] Ps. xxv. 14.—Some explain, that R. Eleazar wept for joy, because they had adopted the right decision; others will have it that he wept for grief, because they had forgotten and put to the vote an הלכה למשה מסיני

am I [situated with respect] to coming into the congregation [of Israel]?"[12] Rabbon Gamaliel answered him, "Thou art prohibited." R. Joshua answered him, "Thou art permitted." Rabbon Gamaliel then said, "The Scripture saith, 'An Ammonite and a Moabite shall not enter into the congregation of the Lord, even to their tenth generation,' and so forth."[13] To this R. Joshua replied, "Are then the Ammonites or Moabites still in their own land? Sennacherib, king of Assyria, did already long ago march up and intermix the nations, as it is said, 'I have removed the bounds of the nations, have plundered their treasures, and laid low the might of the inhabitants.'"[14] "[But]," said Rabbon Gamaliel to him, "the Scriptures declare, 'And afterwards I will bring again the captivity of the children of Ammon,'[15] and [therefore] they are already returned." [To this] R. Joshua replied, "The Scriptures [also] declare, 'I will bring again the captivity of my people Israel' [and Judah],[16] but [nevertheless] they are not yet returned;" upon which they [the sages] permitted him [the Ammonitish proselyte] to come into the congregation.

§ 5. The Targum [Chaldee passages] in Ezra and Daniel makes the hands unclean. Targum written in Hebrew characters, and Hebrew written in Targum [Syriac] characters or in Hebrew characters, do not make the hands unclean. In no case do [sacred Scriptures] make [the hands] unclean, unless the writing be Assyrian [square] characters on parchment with ink.

§ 6. The Sadducees said, "We blame [object to] you Pharisees, because you say, 'Sacred Scriptures make the hands unclean, but the books Hameram[17] do not make the hands unclean.'" Rabbon Jochanan ben Zachai replied [ironically], "And have we nothing else to object to the Pharisees but this? They also assert that the bones of an ass are clean, but the bones of Jochanan the high priest are unclean." They [the Sadducees] replied, "According to their love [the estimation in which the bones are held] is their unclean-

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[12] To marry an Israelitish woman.

[13] Deut. xxiii. 3.

[14] Isa. x. 13.—The "removal of bounds" is expressive of the custom to transplant conquered nations from their own country to some other land.

[15] Jer. xlix. 6.

[16] Amos ix. 14.

[17] ספרי המירם According to Bartenora, from המיר, to change, or substitute falsehood in lieu of truth—books written against revealed religion. Others consider it to mean the writings of Homer, the Greek poet.

ness, so that no one may turn the bones of his father and mother into spoons." He answered them, "In like manner [are] the sacred Scriptures; according to their love [the high estimation in which they are held] is their uncleanness; whereas the books Hameram, which are not beloved [held in no esteem], do not make the hands unclean."

§ 7. The Sadducees said, "We blame [object to] you Pharisees, that ye declare the stream [which flows when water is poured from a clean vessel into an unclean one] to be clean."[18] The Pharisees replied [with much better right], "We [may] blame [object to] you Sadducees, that ye declare a streamlet of water which flows from a burial ground to be clean."[19] The Sadducees [further] said, "We blame [object to] you Pharisees, because ye say, 'If mine ox or mine ass cause any damage, I am bound [to make compensation], but should my bondman or bondwoman cause any damage, I am absolved [from making compensation];' if I am bound for mine ox and mine ass, respecting which there are no duties enjoined on me, [does it not follow that] for my bondman or bondwoman, respecting whom there are duties enjoined on me, it is just that I should [also] be bound [to compensate] for the damage he [or she] occasions?" [But] they [the Pharisees] replied, "Not the same rule which applies to mine ox or mine ass, that are not possessed of reason, can apply to my bondman or bondwoman, who are possessed of reason; for, should I offend them, they may [maliciously] set fire to the growing corn of another person, in order that I might be bound to pay for it."

§ 8. A Galilean Sadducee said, "I blame [object to] you Pharisees, that you insert the name of the sovereign in the same document [letter of divorce] with Moses."[20] The Pharisees replied [with much better reason], "We [might] blame [object to] thee, Galilean Sadducee, that ye inscribe the [name of the] sovereign with the Holy Name on the same page: and not only that, but ye inscribe the sovereign first, as it is said, 'And Pharaoh said,

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[18] Vide Treatise Maksheerin, chap. V. § 9.

[19] If a streamlet of water which flows from so unclean a place as a cemetery, is by the Sadducees allowed to be clean, surely the water which flows out of a clean vessel is, with much more reason, to be considered as clean.

[20] In dating the document, the year of the sovereign's reign is inserted, and the whole closes with the formula, "According to the Law of Moses and of Israel." This mention of the sovereign, and the year of his reign, the Sadducee considers as an insult to Moses.

Who is the Lord that I should hearken to his voice to let Israel go?'"[21] [But when he was punished, he exclaimed, "The Lord is righteous."][22]

LXII. TREATISE OOKEZIN,

STALKS.

[Treats of legumes and fruits which contract uncleanness.]

Which closes Seder Taharoth.

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[21] Exod. v. 2.—The name of the heathen sovereign cannot be considered as an insult to Moses, since, in the passage quoted, the name of Pharaoh is coupled with that of the Lord, and even precedes it.

[22] Exod. ix. 27.—This sentence forms no part of the Pharisee's reply, and has no connexion with what precedes, but is only introduced that the Treatise may not conclude with Pharaoh's blasphemy.

FINIS.

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